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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

H.R. 2519

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND FOR SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1992, AND FOR OTHER PURPOSES

PART 1 (Pages 1–775)

American Battle Monuments Commission
Army Cemeterial Expenses
Consumer Information Center
Consumer Product Safety Commission
Council on Environmental Quality
Environmental Protection Agency
Federal Emergency Management Agency
National Credit Union Administration
National Institute of Building Sciences
Neighborhood Reinvestment Corporation
Office of Consumer Affairs
Resolution Trust Corporation
Selective Service System

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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

WEDNESDAY, FEBRUARY 6, 1991

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:33 p.m., in room SD–138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chair) presiding.

Present: Senators Mikulski, Garn, and D'Amato.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

STATEMENT OF ANN WINDHAM WALLACE, DIRECTOR, OFFICE OF CONSUMER AFFAIRS

ACCOMPANIED BY:

WAVERLY LAND, DIRECTOR, PLANNING, BUDGET, AND EVALUATION

ANDREW L. POAT, DEPUTY DIRECTOR

INTRODUCTORY REMARKS

Senator MIKULSKI. The subcommittee will come to order. Today we will be taking testimony from our three very important consumer agencies within this subcommittee's jurisdiction. I have been encouraging the President to adopt a national energy policy with conservation as its prime thrust, but I did not think it would come to me. So for the chilly room we apologize.

We are going to move the committee very quickly. Secretary Cheney and Colin Powell want to brief the Senators on some of the aspects of the ground war possibility, so I am going to be there and give everyone my full attention.

We want to welcome our first witness, Mrs. Ann Windham Wallace, the new Director of the U.S. Office of Consumer Affairs.

Welcome, Mrs. Wallace, and we are pleased to have you appear before the subcommittee for the first time. I know that the President appointed you back in November and you have been in only a short time, but I understand the transition has been smooth and under your capable leadership no time and no money has been wasted, so we look forward to hearing about your budget request of just over $2 million.

Some of the issues we want to cover are the printing of the Consumer's Research Handbook, what OCA is doing in privacy issues, and how OCA is aiding particular constituencies like the elderly and minority communities. Let us have you, then, present your agency's appropriations request, and we will move on.

FISCAL YEAR 1992 BUDGET

Mrs. WALLACE. Thank you, Madam Chair.

I am pleased to appear before you to present the fiscal year 1992 budget for the U.S. Office of Consumer Affairs. I am honored that the President has appointed me to lead an agency that is committed to serving the needs of the American consumer.

The $2.1 million and 22 staff requested represent a current service funding level with slight increases to accommodate government-wide pay raises and the relocation of our agency.

PRIORITIES

Our priorities in fiscal 1992 will be in three areas: One, issues resulting from emerging technologies and changes in the marketplace; two, consumer education; and three, administration policy development and coordination.

Consumer spending accounts for $2 of every $3 in the American economy. While that statistic has remained constant year to year, the profile of the consumer has not. Consider that the population of our three largest States will be 40 percent or more minority by the year 2000. Services now account for over one-half of each $1 consumers spend. One in four retail dollars is now spent in direct marketing, rather than traditional store settings.

PRIVACY

The agenda of our office reflects these changing demographics and marketplace realities. Nearly 2 years ago, we identified consumer privacy as an important marketplace concern for the 1990's. That commitment remains strong today.

In 1990, we accepted four invitations to testify before congressional committees on privacy issues, addressing such topics as the Fair Credit Reporting Act and caller ID. Last June, we joined with the National Consumers League to cosponsor a National Conference on Privacy in the 1990's. Last week, I visited the TRW Credit Bureau in Columbia, MD, to discuss with high-ranking TRW officers the concerns that consumers have with regard to privacy, accuracy, and fairness of credit reporting practices.

Telecommunications continues to be a field of great innovation. The introduction of 900 telephone numbers, for which consumers must pay, is the most recent. A number of needs for consumer education, responsive business practices, and price disclosure policies, have arisen around this technology, all of which will be discussed at a March conference organized in cooperation with our Office.

QUALITY IN SERVICE

More and more consumer dollars are spent on product from the service sector. We were delighted to join with John Hancock Financial Services and AT&T in holding the first international quality service summit in Boston last November, which gathered business leaders to advance quality enhancement strategies.

CONSUMER EDUCATION

Consumer education remains a vital part of our operations. Our 10th annual National Consumers Week is scheduled for the last full week in October, during which time we will make available the sixth edition of the Consumer's Resource Handbook. This publication is used extensively by Federal, State, and local consumer affairs agencies, extension services, as well as individual consumers.

Our sixth biennial Constituent Resource Exposition is scheduled for this coming April. Expo brings together more than 1,000 congressional caseworkers and representatives from 40 Federal agencies. We will distribute the Congressional Liaison Handbook to assist resolution of constituent problems and avoid misdirected complaints and inquiries.

SPECIAL COMMUNITIES

The changing demographics of our Nation demand that consumer education move beyond traditional means of communication. Language, cultural, and literary barriers must be overcome.

In April of last year, we sponsored the White House Symposium on Minority Consumer Issues. While demonstrating the linkage between consumer skills and minority health, financial, and education problems, it also identified new and expanded ways to help minority consumers. A second symposium on minority issues is being planned for 1992.

INTERAGENCY COORDINATION

The mandate from Executive Order No. 12160 to coordinate consumer policy and to represent the interests of consumers in the development of domestic legislation remains a vital function. I continue to chair the 41-member Consumer Affairs Council.

ENVIRONMENTAL LABELING

Our agency has taken an active interest in two other interagency issues.

A survey conducted by Advertising Age documents the importance of environmental labeling to today's consumers. Eighty-two percent reported that they had changed their purchasing decisions based on concerns about the environment. The proliferation of environmental claims by producers and advertisers has resulted in some confusion among consumers about the accuracy of such claims as "recyclable," "degradable," and "environmentally friendly." We are working with the Environmental Protection Agency, the Federal Trade Commission, State attorneys general, and the private sector, to ensure that these terms provide consistent and truthful information about the impact of products on the environment.

PRODUCT RECALLS

Another example of interagency cooperation to benefit consumers is the Product Safety Recall Working Group formed by USOCA. It includes representatives from six agencies that have recall authority and its aim is to improve consumer response to recalls, which typically ranges from 2 to 50 percent depending on the type of product.

In closing, Madam Chair, I think there are very few places in Government where such a small investment can yield such a great return.

I would be happy to try to answer any questions that you have at this time.

[The statement follows:]

STATEMENT OF ANN WINDHAM WALLACE

Madam Chair and members of the subcommittee, it is a pleasure to appear before this subcommittee as it considers the Fiscal Year 1992 budget for the United States Office of Consumer Affairs. I am pleased that the President has appointed me to lead an agency that is committed to serving needs of the American consumer and so influential in seeing that those needs are met.

The $2,103,000 and 22 FTE requested for FY 1992 represent a current service level with increases provided for pay-related costs and rent increases related to the relocation of USOCA's offices.

Fiscal Year 1991 was an impressive year for USOCA, and I would like to commend my predecessor, Bonnie Guiton, for her efforts on behalf of consumers. I look forward to continuing the projects she has initiated as well as venturing into new areas.

There are 41 Federal agencies whose programs have a direct impact on the consumer. There are many more state and local agencies who have regulatory responsibility to protect the consumer from fraud, from unhealthy food and from unsafe products. Yet only USOCA has as its mission to speak for all consumers at the policy making level of the Federal government. As a consequence, there are many areas where the resources at USOCA's command could be used as a powerful lever on behalf of the consumer.

In FY 1992 USOCA will focus its efforts on five areas:

- privacy
- consumer information and education;
- policy development;
- interagency coordination; and,
- special communities.

In addition, major new program initiatives will be undertaken when there appears to be significant opportunity to present a consumer perspective that would not otherwise be considered, and when it is likely that USOCA participation would result in a substantial change that would benefit consumers. A new initiative that meets these criteria is currently being addressed by USOCA. The issue is environmental labeling, which includes claims used in advertising and on packages. It is one area where consumers everywhere need help understanding what terms like "recyclable", "degradable" and "environmentally friendly" mean. USOCA is working with the Environmental Protection Agency, Federal Trade Commission, the State Attorneys General, the American National Standards Institute and the private sector to develop an agreement on the definition of these terms in order to provide consistent truthful information about the impact of products on the environment.

When I identified privacy as the first of the five areas of USOCA focus, I was addressing the protection of personal information. This is an important issue, both domestically and internationally. USOCA became interested in this topic in FY 1989 and continues to be a lead agency in this area today. Our expertise about privacy and data protection is well known. In fact, in FY 1990 USOCA accepted four invitations to testify before Congressional committees on privacy issues, addressing such topics as the Fair Credit Reporting Act and Caller ID. Last June, we joined with the National Consumers League to cosponsor a national conference on "Privacy in the 1990's" where 300 consumer affairs professionals and privacy experts came together to address a broad range of privacy issues.

I want to continue the office's work in this area. Recently I was at the TRW Credit Bureau in Columbia, Maryland, where I was able to talk with Mr. Van Skilling, one of the highest ranking

TRW officers and other TRW executives from Ohio, Texas, and Maryland. I raised with them a number of the issues consumers have over the privacy, accuracy and fairness of credit reporting practices. They, in turn, described their increasing efforts to meet consumer concerns.

We believe the use of new technology in our fiercely competitive marketplace will continue to make privacy in the marketplace an issue for years to come. Companies use this new technology to improve their marketing skills. However, this technology depends on greater information about individual consumers. Therefore, we will continue to speak out on this issue and to promote the privacy principles we developed. We understand the Senate will continue to examine privacy in the telecommunications industry. We anticipate that new technologies such as Caller ID and Telephone-Transaction-Generated-Information will be of particular interest.

Internationally, concerns about privacy are mounting. For example, the European Community as part of its 1992 Internal Market program released draft proposals covering data protection and privacy. USOCA was a member of the U.S. Delegation to a meeting of experts at the OECD to discuss data protection in OECD member countries and the EC proposals. In addition, late last year the United Nations approved voluntary guidelines for the use of computerized personal data files. We will continue to work with other government agencies and the private sector to ensure that the interests of American consumers are represented in these forums.

USOCA continues to play an active role in disseminating consumer information. FY 1991 will mark the publication of the sixth edition of the Consumer's Resource Handbook. This award winning publication continues to be the main source of information regarding contact points for consumer complaint resolution and is used extensively by Federal, state and local consumer affairs agencies, extension services, as well as the individual consumer. It is available to the public at no cost through the Consumer Information Center in Pueblo, Colorado.

The sixth edition will continue to be a multi-agency effort with participation expected by some 41 Federal departments and agencies. While we are concerned that because of budgetary constraints some agencies will no longer be able to continue their contributions to this worthwhile publication, early reports from the agencies are encouraging. We hope that we can continue this effort at near historic levels. Of course, we will continue to distribute other consumer information under various titles through the Consumer Information Center.

In FY 1991 we will be conducting our sixth biennial Constituent Resource Exposition. As in 1989, we expect to bring together more than 1,000 Congressional case workers to meet with representatives from 40 or more federal agencies to discuss ways of expediting answers to constituent questions. Our popular Congressional Liaison Handbook will be updated and distributed. This Handbook gives case workers a fingertip guide to agency consumer liaison personnel and helps to avoid misdirected complaints and inquiries. Its usefulness to caseworkers is attested by the fact that since the 102nd Congress began we've already received calls from almost ten percent of the congressional offices inquiring whether the update is available yet.

USOCA's ninth annual National Consumers Week (NCW) was an outstanding success with over 400 organizations, throughout the

U.S. and abroad, participating. The theme, "1990: New Consumer Horizons," was chosen to encourage participants to make the 1990s a decade focused on the consumer. In FY 1992 we will celebrate our tenth annual National Consumers Week. As in previous years, the private sector participants help us promote the weeks events. As a result of such active support from the business community, our costs associated with NCW are minimal.

USOCA continues to be effective in coordinating the efforts of other Federal departments and agencies that have consumer affairs responsibilities. In FY 1990, the Consumer Affairs Council, which consists of senior consumer policy officials from 41 Federal departments and agencies, met quarterly to discuss Administration consumer policy and initiatives. The Council will continue to focus on cross-cutting issues and initiatives, and to sponsor training programs to improve the skills of Federal consumer affairs personnel.

As in the past, USOCA will continue to work with the FTC, CPSC and State Department to coordinate the work of the U.S. delegation to the 24 member nation OECD Committee on Consumer Policy.

USOCA focuses much of its attention on identifying emerging issues that will affect consumers and in developing programs that address these issues. A topic that has gained a great deal of attention recently among Congress, consumer groups and business is low awareness and poor response to product recalls by consumers. In FY 1990 USOCA formed a Working Group on Product Recalls of representatives of agencies that have recall or related authority to address this problem. With this group USOCA is working to improve media coverage of recalls and, ultimately, consumer awareness and response.

Another issue that is growing in interest is the quality of service in the service industry. The U.S. economy is increasingly a service economy and consumers are daily more dependent on commercial providers for a broad range of services, many of which did not exist a few years ago but now are part of the fabric of American life. That is why USOCA was delighted to join with John Hancock Financial Services and AT&T in holding the first International Quality Service Summit in Boston last November. The Service Summit gathered 130 business leaders from around the world to share experiences and perceptions about the strategic role service quality will play in the global economy in the 1990's.

As Roger Porter, the President's Assistant for Economic and Domestic Policy, noted in his remarks at the summit, the issues the Service Summit examined "are crucial to the economic future for Americans -- managers, employees and consumers -- over the next decade."

Besides the stimulus of the thoroughgoing exchange of ideas the Service Summit afforded, the meeting produced what we are calling an Executive Blueprint, a summary of the twelve primary themes emerging from the Service Summit, and a one-hour videotape of highlights from the 14 hours of sessions. These will be used to foster increased scrutiny of service quality, particularly among companies that were not represented at the Service Summit. Because of the enthusiastic response to the conference a second Service Summit is being planned for early FY 1992.

USOCA will be boosting its efforts to increase the information available on 900 telephone numbers to the public. We will hold a conference in 1991 to discuss the burgeoning use of 900 numbers, how these numbers can help consumers as well as how consumers are deceived by unscrupulous operators.

During the past year USOCA has renewed its efforts to address the marketplace concerns of special communities. As an example, in April of 1990, USOCA sponsored its first White House Symposium on Minority Consumer Issues. While demonstrating the linkage between consumer skills and major minority health, financial, and education problems, it also identified new and expanded activities to help minority consumers. A second symposium on minority issues is being planned for FY 1992.

USOCA will also be making a special effort to find a mechanism to teach "life skills" to minority groups who have traditionally been unreachable by conventional consumer education methods.

In closing, Madam Chair and Members of the Subcommittee, these are only a few highlights of USOCA's successes over the past year and a brief look at our plans for the future. I think there are very few places in government where such a small investment can yield such a great return. The USOCA staff should be congratulated for their efforts. The level of funding requested for FY 1992 is essential for continuing the successful operation of USOCA. I strongly recommend favorable consideration by the Congress.

I would be happy to answer any questions that you may have at this time.

CONSUMER'S RESOURCE HANDBOOK

Senator MIKULSKI. Well, thank you very much, Mrs. Wallace. I understand that you are really focusing the agency on some very contemporary issues, like the telecommunications issue where there has been both exploitation and even some things that have been quite underhanded. I do not think we have to elaborate on them for the purpose of the hearing, we need to focus on how we can maintain freedom of information. Obviously, you are maintaining the traditional basis of the agency and tackling some very contemporary issues and we want to support you in your budget request and go over some of these other issues.

We understand that OCA has some shortfalls with the printing of the Consumer's Resource Handbook and that agencies often make a voluntary contribution to pay for the printing of the handbook but due to the budget crunch they are not as forthcoming. Do you want to tell me about that? I would like to know, do you have a shortfall, and how will you make it up?

Mrs. WALLACE. We have yet to hear from most of the agencies. Of the responses we have received, several have informed us that they will be unable to contribute. If this trend continues, we are going to be looking for other means of funding the handbook.

Senator MIKULSKI. Do you know how much of a shortfall you actually will have, Mrs. Wallace?

Mrs. WALLACE. I will defer to Mr. Land, my Budget Director.

Mr. LAND. We do not have all of the responses in. We do not expect them until the end of March. Of the five responses we have gotten—most of them from very small agencies—three have agreed to contribute, one is still considering it, and another has said that they did not think they could. So it is much too early to tell whether or not we will have a shortfall.

Senator MIKULSKI. Well, we are going to need to be informed in that area, because we feel this resource handbook has been just a hallmark of the agency's activity. If there is a shortfall, how do you anticipate making it up—coming to us, or private sector?

Mrs. WALLACE. I believe that we would have to gain further authority from the Congress to receive funds from the private sector directly to publish our handbook.

Senator MIKULSKI. Well, one of the things I would encourage us to be in communication with is the involvement of the private sector. We all understand that that might be a desirable source, but at the same time, would you concur, Mrs. Wallace, that the independent nature of the consumer handbook, to use Congresswoman Chisholm when she was campaigning, is that it was "unbought and unbossed," and we want to make sure that that is the way people look at it and that it is not a federally funded yellow pages for companies.

We would be interested, then, if there is a need to turn to the private sector, what type of safeguards would be recommended to maintain the independent nature of the consumer handbook, and I know that is your goal.

Mrs. WALLACE. Yes; it is.

PRIVACY IN THE MARKETPLACE

Senator MIKULSKI. We would like to have further conversation with you on that, as to how much you need, and then if you went to the private sector, how we would preserve the independence.

Let us move on, then, to the privacy issues. You talked about the hearing, the meetings, and your future plans in that area. I know a great deal has been focused on voluntary programs and protecting privacy rights. How effective do you think they have been?

Mrs. WALLACE. Is the industry policing themselves, so to speak?

Senator MIKULSKI. Yes.

Mr. POAT. Madam Chair, having been involved in that issue for about 1½ years, I might better address that. A number of industry groups have been very active in putting together programs not only that look good on paper, but that are much more effective in application, in preserving privacy. Interestingly, the conference that we cosponsored last year was attended, in large sum, by private industry which is very interested in this matter.

Some recent initiatives on the part of the European Community to establish national directors on privacy within that setting has also brought a number of companies to the table on privacy matters, so I think there has been an excellent initiative on the part of private industry. They have been very forthcoming with us and certainly want to work with us to make their protections effective.

Senator MIKULSKI. What are some of the common concerns that were articulated at this conference?

Mr. POAT. In briefest form, I would say it is the use of data for purposes other than that for which the consumer yielded the information. Which is to say, if an individual enters into a contract, they certainly understand that they are going to give certain information about the transaction to the person with whom they are doing business in order to make that transaction occur—for example, a mortgage on a home.

However, most consumers would not agree that it is the right of the individual who uses that information to make that transaction occur to or make that information available to other people who want to use it for some other marketing purposes without letting that consumer know that that is an option.

SPECIAL COMMUNITIES

Senator MIKULSKI. Well, we will look forward to hearing more about your efforts, and you will be breaking new ground that will be very interesting to follow.

Let us move on to the populations that are most vulnerable to exploitation, which is the elderly and also people of color, and particularly those who are poor or just learning English, who are coming to our shores. What special consumer needs have you identified for the elderly, and what is your thrust in that direction?

Mrs. WALLACE. Last year we held a National Symposium on Minority Consumer Issues. There were more than 100 leaders from elderly, minority, educational, consumer, and religious organizations, who participated in that, and we do plan to have a followup to it.

One of the problems that we have found was that the low-income, the young people who are dropping out of high school, and the elderly are the ones that really need the help in the marketplace with consumer issues. They are the ones that are most apt to be taken by fraud and unscrupulous individuals.

A problem with some of the minority populations—the Hispanics, for example—is that they are not literate in their own language, so to print a brochure in Spanish really does not get the information across to them. We need to develop a way to get the word to them, possibly through television.

The American Association of Community Colleges is developing a program that we are right now in the process of filming. We hope that that will be one way we can reach these people, that they can then see that these are some problems that people are having, and that they need to be aware.

Senator MIKULSKI. Where does exploitation most occur? Credit scams?

Mr. POAT. It differed, and here we are pulling from a CFA study with which you may be familiar. Seniors, as a group, did not score better 60 percent under any of the five areas that were surveyed. So uniformly, there is a great deal of misinformation in this group.

As far as fraud or scam is concerned, I think there is no question that financial services would have been one of the principal areas in which they suffered.

Senator MIKULSKI. Such as insurance?

Mr. POAT. Insurance, investments. These are, in many instances, individuals who are not used to financial transactions, certainly not some of the give and take of financial transactions in today's markets.

They also came from a day when people were more trusting. If someone said they were going to do something, they did it. Now, of course, today con artists take the $10,000 and run. Because older people are more trusting and because they do not understand some of the risks that they are undertaking, they end up losing their money.

REDUCING EXPLOITATION IN SPECIAL COMMUNITIES

Senator MIKULSKI. You know, I would recommend an idea to you, particularly for the elderly.

One of the biggest ways that the elderly are exploited is in check cashing. They are literally mugged on the street and then figuratively mugged on their way to the bank. Things like direct deposit are so important and a lot of them are scared to death.

But here is my point. We have a Commissioner of Social Security, Mrs. Gwen King, who is really oriented to the constituency that she is charged to serve. She is very constituency oriented, as well as to the solvency of the social security system. They mail out checks every month and little inserts or something from time to time might go a long way just to give a heads-up alert, or even a pamphlet, just telling them what they can get on their own and how we can maximize the distribution network.

Every month, something is coming directly into the homes of senior citizens and I know that your background is consumer and voluntary affairs, so you are used to knowing how to use grassroots. I think that is where we are going to have to go. I am sure you know from your own work in Texas that minority communities either have their own cable TV or their own ethnic radio station.

Mrs. WALLACE. They have their own network.

Senator MIKULSKI. That is right, and using that, those kinds of blurbs, would be very good. Did you want to add another comment?

Mrs. WALLACE. AARP is a good source of getting information out, and I have thought of talking with Jane Kinney over at ACTION to see about working with their RSVP Program and with their VISTA Program.

Senator MIKULSKI. Oh, I think it would be great if you could be working with them, the President's thousand points of light, they could be voluntary consumer extension agencies. You and I know what that is, but the actual basis of material has got to come from the mother ship, which is your shop.

Mrs. WALLACE. Yes.

Senator MIKULSKI. Well, I think we have covered the questions we wanted to at the hearing. We have got a better idea of what you want to do and how you want to use this very spartan amount of money. I think you are certainly on the right track.

We are going to do what we can. We have a few other items that we want to submit for the record, but we really wish you the best of luck. You have a very important job. You have got the right background for it. You know how to move a big State and work with a big bureaucracy, which we are, and yet use a lot of voluntary effort. So we look forward to working with you.

Mrs. WALLACE. Thank you very much.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Office for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

Mailing Costs

Q. How much does it cost to mail out the Consumer's Resource Handbook? Will that cost increase as a result of the new postage rate?

A. We have estimated that we will need to reimburse the Consumer Information Center $0.49 for each individual copy of the Consumer's Resource Handbook which it mails out. When we have bulk orders, we send them third class.

We have not been informed by the Consumer Information Center of any increase in this cost as a result of the postage rates which went into effect February 3rd.

If the Consumer Information Center is forced to pass along the postal rate increase, USOCA will attempt to send out as many as possible by the bulk rate method to extension agents, etc. in order to offset the increase and stay within the amount we requested for FY 1992.

National Consumers Week

Q. What are your plans for National Consumers Week? How much money does the Federal government invest in this effort? How much businesses and other private groups contribute?

A. We have changed the dates for NCW from the traditional last week in April to October 20 - 26. Therefore we are only now in the beginning planning stages. We have just picked the slogan "Today's Choice--Tomorrow's Opportunity".

The week costs the Federal government very little. Private sector organizations have supported NCW by printing approximately $20,000 to $30,000 worth of posters and brochures each year. These are our principal communications pieces to promote NCW.

We pay the cost of mailing the materials. For this coming year I would estimate that cost to be $6,000. In addition to that cost there is the cost of staff time of about one-quarter of an FTE.

Hundreds of organizations participate each year by acknowledging the week in a way that is meaningful to them. They each pay the cost for their own events. We have no means by which to quantify the monetary value of their assistance.

PRODUCT SAFETY PUBLICATION

Q. Page 10 of your budget justification indicates that USOCA is developing a leaflet on product safety for consumers. Why isn't CPSC developing this publication? Are they involved in the development of it?

A. The USOCA publication has evolved from the Working Group on Product Safety Recalls that USOCA convened in response to agency, consumer, media and Congressional concern about low response rate to product recalls. The publication is not about product safety broadly but focusses on the importance of product recalls to consumers and their safety as well as the importance of consumer reports of safety problems to the Federal government. It also will explain the product categories covered by the six Federal agencies that conduct product safety recalls and how to communicate with each of them, either to learn about recalls or to report unsafe products. CPSC is a member of the Working Group and has supplied the information that will appear concerning that agency. The intent of this publication is tell consumers as briefly as possible what they need to know about recalls.

FOOD PACKAGING

Q. A recent consumer concern is the "downsizing" of products, when a food company reduces the net weight of a product but does not reduce the price, and packages the product to appear the same. Does USOCA plan to get involved in this issue? If so, how? If not, why not?

A. USOCA is aware of consumer concerns about "downsizing." Last year the National Conference on Weights and Measures (NCWM) raised the issue with a number of coffee packers; New York Attorney General Abrams has been investigating the issue; and recently the Washington Post ran a front page story on it. Under the Fair Packaging and Labeling Act the Food and Drug Administration sets and enforces standards for food, drugs and cosmetics and the Federal Trade Commission for all other products. We have begun looking into this issue and have found two general sources of consumers' concerns:

- Changes in the processing of some food products increase their size and yield, so that with some coffees and cocoas, for example, consumers get the same number of servings from fewer units of the product. This may not be technically deceptive, but marketers run the risk of alienating their customers if it isn't thoroughly explained in the advertising and labeling of the product.

- Other products have reduced contents for competitive and marketing reasons, e.g., to avoid increasing prices or to keep pace with a competitor who has done it to generate more revenue for marketing. Here, too, consumers may feel misled, even when an accurate net weight appears on the label, because consumers have long associated certain net weights with specific package sizes. In fact, a number of Federal regulations assign minimum net weights to various package sizes.

Unit pricing, which USOCA has long encouraged as a means of facilitating comparisons for shoppers, would largely obviate this problem. Currently mandated in some form in only 15 states and territories, unit pricing makes accurate price comparisons among competitive brands instantaneous, requiring no calculation by the consumer. If it were more widely used, concerns about "deception" would be less likely to arise.

The Director of USOCA will be addressing the Grocery Manufacturers of America's Annual Consumer Affairs Conference on February 22 and will raise these issues with them. In addition, as the Food and Drug Administration is assigned responsibility for regulation of food packaging under the Fair Packaging and Labeling Act, she will discuss the problem with the new Commissioner of Food and Drugs at an upcoming meeting.

Rent

Q. Why is your rent increasing by $76,000 (more than 50%)? When will your move to new space be accomplished? Please provide a breakout of all costs associated with the relocation. Why are you moving into private office space rather than space owned by GSA?

A. The General Services Administration directed USOCA to move from its current office space because the building does not meet current health and safety standards. GSA issued a request for bids last spring and two building firms made final offers last summer. GSA chose 1620 L St., NW, and the lease agreement should be signed by February 15, 1991. After the space is configured and the walls built, USOCA should be able to move in sometime after March 15.

GSA will pay the costs of moving furniture because it directed USOCA to move. The costs of installing phone lines and instruments are under discussion with GSA and there are no final estimates on that cost and what share USOCA will bear. In addition, USOCA has requested an "upgrade" to the carpeting offered by the building management firm because USOCA believed that it would get longer use from a higher grade carpet installed with padding. The carpet upgrade will cost an estimated $6,800.

USOCA is moving into leased space because GSA could not provide the small amount (5,800 sq.ft.) of Federally owned space within the geographic location within which USOCA must operate.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

STATEMENT OF TERESA NASIF, DIRECTOR

INTRODUCTORY REMARKS

Senator **MIKULSKI**. Our next witness is Mrs. Teresa Nasif, Director of the Consumer Information Center. The CIC is to be congratulated in celebrating its 20th anniversary of service to the American consumer.

Mrs. Nasif, you are to be congratulated for having served there for 17 years, so welcome to you and your Budget Director, Bill Early.

BUDGET REQUEST

CIC's budget request is $1.94 million, an increase of $400,000 over last year's fiscal year. I understand this requested budget would allow you to continue your present programs at current levels.

Of course, one of the concerns we have is your ability to market your catalog, which is the very essence of getting consumer information out. CIC is a repository of good information and information that, in these tough economic times, enables the consumer to use their resources in a very smart fashion.

So, Mrs. Nasif, we look forward to your testimony.

Ms. **NASIF**. Thank you, Madam Chair, and members of the subcommittee. It is a pleasure for me to be here today to discuss the fiscal year 1992 budget request of the Consumer Information Center.

Last October, CIC celebrated its 20th anniversary of providing a cost-effective, nationwide system for Federal agencies to deliver vital information to the public. This information covers a wide range of subjects such as health and nutrition, the environment, education, money management, and Federal benefit programs.

Since its inception, CIC has filled consumer orders for 230 million publications.

Senator **MIKULSKI**. Is that right?

Ms. **NASIF**. That is correct; 230 million publications. I feel like I have been there the whole time, overseeing the distribution, but we were really proud to receive a congratulatory letter from President Bush.

Senator **MIKULSKI**. That is great.

Ms. **NASIF**. He stated that the Consumer Information Center is an outstanding example of a Government program that has succeeded because of partnerships forged among Federal agencies, the public, the media, and the private sector.

In carrying out this success, CIC works closely with program and information staff members in more than 40 Federal departments and agencies to help them develop, promote, and distribute useful information on a variety of consumer topics.

To further the private/public partnerships praised by the President, CIC also regularly seeks out industry groups to participate in our cooperative publishing program. This program matches private sector organizations with Federal agencies which share a joint interest in providing unbiased, helpful consumer information to the public.

To date, these efforts have resulted in CIC coordinating, promoting, and distributing 57 cooperative Government/industry publications on a wide range of subjects.

To make consumers aware of the availability of the information, we publish the quarterly Consumer Information Catalog. Our distribution facility in Pueblo, CO, then handles the fulfillment of resulting orders. We project distribution of 8.5 million publications to consumers during fiscal year 1991.

CIC's media program also performs a significant role in the delivery of this information to the public. News releases and scripts for the print and broadcast media publicize the catalog's availability, as well as how to obtain specific consumer publications.

As an important part of its media activities we carry out an annual television public service advertising campaign. Evidence of success in this area is the estimated $6 million of free air time that television stations will donate to the current campaign.

CIC's requested appropriation of $1,944,000 for fiscal year 1992 is an increase of $404,000 over the current year. I would like to emphasize that this amount is essential to continue present programs. It does not provide for any staff increases or new or expanded programs.

The funds will enable us to meet ongoing expenses and at the same time, decrease the use of moneys from the CIC fund. In recent years, with the subcommittee's support, we have maintained a steady program level by utilizing unobligated balances in the fund. This approach avoided the need for major appropriation increases. However, it has caused a decline in the fund balance and the fund is no longer adequate to supplement the appropriation.

The requested appropriation, along with program economies, will stabilize the fund and ensure that CIC's income received during each year is sufficient to cover annual expenditures.

Madam Chair, as CIC begins its third decade of serving the American public, we are proud of our past accomplishments. We are fully dedicated to the task of building on those accomplishments in consumer information and education, so that the next 20 years will be marked by even greater success.

I hope you agree that CIC programs and activities perform a vital public service and that our fiscal year 1992 request merits favorable consideration. Thank you for allowing me to make this presentation. I would be happy to answer any questions that you might have.

[The statement follows:]

STATEMENT OF TERESA NASIF

Madam Chair and Members of the Subcommittee, it is a pleasure for me to be here today to discuss the fiscal year 1992 budget request of the Consumer Information Center (CIC).

Last October, CIC celebrated its twentieth anniversary of providing a cost-effective, nationwide system for Federal agencies to deliver vital information to the public. This information covers a wide range of subjects such as health and nutrition, the environment, education, money management, and Federal benefit programs. Since its inception, CIC has filled consumer orders for 230 million publications. In a congratulatory letter, President Bush stated that the "Consumer Information Center is an outstanding example of a government program that has succeeded because of partnerships forged among Federal agencies, the public, the media, and the private sector."

In carrying out this success, CIC works closely with program and information staff members in more than 40 Federal departments and agencies to help them develop, promote, and distribute useful information on a variety of consumer topics. To further the private-public partnerships praised by the President, CIC also regularly seeks out industry groups to participate in CIC's cooperative publishing program. This program matches private sector organizations with Federal agencies which share a joint interest in providing unbiased, helpful consumer information to the public. To date, these efforts have resulted in CIC coordinating, promoting, and distributing 57 cooperative government-industry publications on a wide range of subjects.

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20TH ANNIVERSARY

Senator MIKULSKI. Well, thank you, Mrs. Nasif. We are going to get to questions, but the committee has been joined by our ranking minority member, Senator Garn.

We are listening to the testimony of CIC, Senator Garn.

They have celebrated their 20th anniversary, got a letter from President Bush saying they have done a good job. Do you have an opening statement you want to make?

Senator GARN. No; I know you are trying to move expeditiously, and so I will just welcome you here. So please proceed.

POSTAGE COSTS

Senator MIKULSKI. Thank you, first of all, for the work that you do. Second, we want to move right to your budget and your ability to market these wide-ranging and very useful sets of information you have to give out.

My first question is this, that with postal rates going up, are you stuck with the bill? In other words, when people write to you for a pamphlet, how to buy a car, how to select an insurance package or the student aid, a variety of information, when you mail that out, do you pay for that postage?

Ms. NASIF. Yes; we do, Madam Chair. It is a misconception that the Pueblo, CO, distribution facility does not have to pay postage bills, but unfortunately we do have to pay postage.

Senator MIKULSKI. That is exactly right. I think there is an assumption that you have your own frank like we do.

Ms. NASIF. Right; we do not, and when agencies want to offer a publication without charge to the public, for example, "Federal Financial Student Aid," they actually pay all the postage and mailing charges.

We collect the money from the agencies and pay the Government Printing Office, which runs the distribution facility.

Senator MIKULSKI. What postage rate do you pay? Do you pay the going rate that a small business would or a catalog company would pay?

Ms. NASIF. Yes; we do.

Senator MIKULSKI. Like Spiegel?

Ms. NASIF. If we were to mail something out first-class mail we would pay the same rate that a consumer would pay; however, in order to save money, the distribution facility in Pueblo uses the third-class bulk rate whenever possible because it is a savings.

However, this postage increase that took effect Sunday is going to impact the third-class bulk rate as well as other types of rates.

Senator MIKULSKI. Mrs. Nasif, if you could tell us, or Mr. Early, if you could, what do you anticipate the impact of that to be?

Ms. NASIF. We will know in April, when we will have sufficient data over at least a month's period, how it would be impacted. The last time we had a significant postage increase, which was in 1989, it added 5 cents to the postage cost portion of each unit.

It helped to make our overall unit costs increase by a total of 9 cents, and so we are aware——

Senator MIKULSKI. That is a lot for what you are doing.

Ms. NASIF. Yes, it is, Madam Chair.

Senator MIKULSKI. You are talking about mailing about 8 million items, and I presume item and unit would be pretty much the same?

Ms. NASIF. That is right.

Senator MIKULSKI. So you are talking about another dime?

Ms. NASIF. Right. Our unit cost projection for fiscal year 1991 is 48 cents. When we made that projection we were anticipating a postal increase. Of course, no one knew exactly the amount of the increase.

In order to keep unit costs as low as possible for the participating agencies, we have to figure out ways to save money and make the distribution facility even more efficient. We try to move the mail as economically as possible and we have even gone to using United Parcel Service in certain instances. We have found that in certain weight ranges, shipping UPS, rather than USPS, is the cheaper thing to do.

We keep the unit costs as low as possible for the participating agencies because all the agencies are facing budget constraints. They have a set amount of dollars for consumer publication distribution.

MARKETING

Senator MIKULSKI. We would like to stay in touch with you on this issue because it directly impacts upon your efforts.

We note that we have been joined by the Senator from New York, Mr. D'Amato.

I am going to ask another question and then see if Senator Garn or Senator D'Amato want to, but I am going to stick to the marketing issues here.

Aggressive marketing is very important to everyone, knowing the wide range of your pamphlets. I note in your request that you have reduced your marketing by 50 percent. Could you tell us what the impact of that is? In other words, do you feel that it was an area that could take a cut, or are we really stabbing the heart to try to save the toe or something?

Ms. NASIF. The programmed amount for fiscal year 1991 of $214,000 for marketing projects assumed that we would be making expenditures to implement the telephone ordering system. After extensive analysis, we have decided that we cannot afford to install an 800 or even a 900 toll number for consumers to order the Consumer Information Catalog.

Instead, we are placing lines in Pueblo where consumers can call and pay applicable long distance charges to order the catalog. In fiscal year 1991, we are realizing a savings of about $100,000 because we are not moving ahead with any of the more expensive telephone ordering systems.

So in actuality, we are going to be spending about $124,000 in 1991 and about the same level in 1992. It does not represent a cut of our other marketing efforts.

Senator MIKULSKI. It means that you are not expanding in new marketing techniques, like the 800 number?

Ms. NASIF. That is correct. We have chosen not to go into an area that we felt was too expensive for our limited resources. But we are not cutting back any of our good aggressive media marketing; for example, in television public service advertising, the print ads, or our information releases.

COST OF ORDERING BY TELEPHONE

Senator **MIKULSKI**. My last question in that area is, How much would an 800 number have cost?

Ms. **NASIF**. We estimated, from the analysis we did it was going to be running $1 per phone call.

Senator **MIKULSKI**. $1 per minute?

Ms. **NASIF**. $1 per call was the estimate, and we were anticipating that we could receive about 300,000 phone calls the first year. Our resources are limited and we just felt that we could not establish a system like that without sufficient funding guaranteed over a certain number of years.

Senator **MIKULSKI**. I see. Because people would not call you and say, I want to order the catalog on how to pick a nursing home? I think you have one on long-term care.

Ms. **NASIF**. Yes; we have listed that.

Senator **MIKULSKI**. What they would say is I have a mother and she is ill, what do you have there to help me?

Ms. **NASIF**. That is right, Madam Chair.

Senator **MIKULSKI**. They would tell their story anecdotally and then want you to tell them what you have and then they would ask questions. So each phone call would go 5 or more minutes; am I correct?

Ms. **NASIF**. I think that would have been very likely, Madam Chair, because the Consumer Information Center in Pueblo, CO, is so well known. We can tell by the consumer calls that we receive in our Washington office that people feel they are our friend and when they call, there usually is a very lengthy conversation.

After looking at 800 numbers and 900 numbers, we found that the normal long-distance rates would, on average, only cost 25 cents a minute. It costs the consumer, on average, 25 cents a minute to call up Pueblo and say, "Please send me a free copy of the Consumer Information Catalog." So we felt that was the most cost-effective, prudent thing to implement.

That is what we are trying out right now. The lines have just gone in and we are gearing up to promote the telephone number to the public. We will revisit the issue of looking at 800 and 900 numbers again in the future. But we are getting a base of experience established.

Senator **MIKULSKI**. Senator Garn, how about you?

Senator **GARN**. I do not have any questions. That surprises me, that cost. Cellular mobile phones do not cost that much per minute. It is very high.

PREPARED STATEMENT OF SENATOR D'AMATO

But Senator D'Amato was just here, and not able to stay, but I would ask unanimous consent that his statement be placed in the record.

Senator **MIKULSKI**. Without objection, so ordered.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Madam Chair, I would like to add my welcome to the Commissioners and staff of the Consumer Product Safety Commission. I have followed the activities of the CPSC for the past several years with great interest and with very deep concern. This agency is one of the smallest in size, yet it is by no means small in importance. Each year an estimated 22,500 American consumers die and an additional 3.4 million are hit with disabling injuries from household accidents.

Along with Senator Lieberman and many others, I have repeatedly argued for an increase in appropriations. The President's fiscal year 1992 budget does include a modest increase of $2.1 million—for a total of $39.2 million. It should also be noted that this year—for the first time since 1981—the agency has had its reauthorization legislation approved. These are important steps in getting the agency back on track in its mission to protect American consumers.

USER FEES

Senator MIKULSKI. Senator Garn, did you have any questions?

Senator GARN. No; I have no questions, thank you.

Senator MIKULSKI. OK. My last question to you, Ms. Nasif, though we have many more—we just want to be able to move ahead here—is the user fee issue.

You have implemented a user fee mechanism. Could you tell us how it has affected the demand for publications and do you think it has in any way been a barrier to seeking information?

Ms. NASIF. The user fee was actually started in 1983, and it was an initiative by Senator Garn when he was chairman of this subcommittee.The user fee as originally structured allowed consumers to order one free publication from the catalog, but if they ordered between 2 and 25, they would have to include that $1.

Starting in the fall 1990 catalog, we started to apply the $1 user fee to any catalog order for free publications. So whether a consumer orders 1, 15, or 25 publications, it is still $1. We have not had that much data yet to see what the impact would be.

But comparing the performance of the fall 1990 catalog with the fall 1989 catalog, we probably will be generating some increase in revenue. Over a year's time, it could be about $30,000 a year.

We have seen a small dropoff in catalog orders, but the people who do order are ordering more publications. So among those people who in the past ordered only one free publication to avoid a user fee, some of those people now say, "No; I am not going to order."

Those continuing to order are ordering more publications, so our average publications requested rate has increased.

Senator MIKULSKI. So they are just careful. Instead of just ordering five separate pamphlets at five different times, which would be $5, they will write the five items down now and do it.

Ms. NASIF. Even more so, by having to include the user fee they are now ordering 15 publications as compared to the previous average of 13. So, in fact, we are projecting that we are going to be distributing a greater number of publications, probably in excess of 275,000 publications per year.

So there is a modest revenue increase and also a publication increase, but there is a small dropoff in number of orders.

Senator MIKULSKI. Now, my last question is, What are your hot five?

POPULAR PUBLICATIONS

Ms. **Nasif**. The Consumer's Resource Handbook is always number one of the hot five in the Consumer Information Center hit parade, and it is recognized as one of the most outstanding publications ever produced by a Government agency.

We have "Dietary Guidelines," which has just been put out by the U.S. Department of Agriculture. Publications about food and nutrition are very popular, as are publications about Federal benefits, which include the "Federal Student Aid Fact Sheet," and "Federal Benefits for Veterans."

One publication which seems to have really caught the public's imagination is "How to Buy Surplus Personal Property from the Department of Defense." This may be as a result of so many ads where consumers are told to send significant amounts of money to find out about items that the Government might be selling.

Senator **Mikulski**. Not surplus property, but surplus property by the Department of Defense.

Ms. **Nasif**. That is correct, Madam Chair. There are separate publications put out by the General Services Administration on surplus personal and real property. Actually, there are many different agencies involved in the selling of surplus land and surplus personal property to consumers. But right now, the Department of Defense publication is among our more popular ones.

Senator **Mikulski**. But that is more popular for defense than compared to, say, RTC?

Ms. **Nasif**. We do not list the one from RTC because it costs $40 and we elected not to list it in the catalog. We felt it was too expensive since the average cost of our publications is $1.50.

Senator **Mikulski**. That is great.

Senator **Garn**. There is so much property in RTC that $40 just covers the cost of mailing the package.

Ms. **Nasif**. That is probably the case, Senator. [Laughter.]

PUBLICATIONS FOR THE ELDERLY

Senator **Mikulski**. What about elderly requests, particularly in terms of protecting against financial service scams, insurance scams, or picking the proper Medi-gap package, and so on?

Ms. **Nasif**. We make a special effort to distribute to the elderly. We distribute through social security offices and State commissions on aging.

Senator **Mikulski**. Is that a big request item for you, or less so?

Ms. **Nasif**. Most social security offices do carry our catalog in their pamphlet rack.

Senator **Mikulski**. When consumers are contacting you making their request, are services for the elderly and to protect the elderly a big demand item?

Ms. **Nasif**. No; we do not have that many publications geared specifically to the elderly. Most of our publications of a general health or money management nature would be helpful to the elderly. And we make an effort to get the catalog out to them, and we have done special press releases for the elderly; for example, when there was the change in the catastrophic coverage of Medicare. We did a special news release because we knew there was confusion on the subject and that was targeted specifically to the elderly.

We do know that we have a significant number of users responding to our audience surveys that are 55 years or older, higher than the average census numbers would indicate. So we know that they are an important segment of users of our services.

CONCLUSION

Senator MIKULSKI. We will look forward to hearing about this postal rate situation for you, and we have a copy of the Consumer Handbook, but I would like to have a copy of your hot five.

Ms. NASIF. I will make sure, Madam Chair, that you receive a copy of all our popular publications.

Senator MIKULSKI. Well, thank you very much, and we look forward to working with you during the process.

Ms. NASIF. Madam Chair, we appreciate your support.

Senator MIKULSKI. Congratulations on the 20th anniversary, and you know you are very much appreciated.

Ms. NASIF. Thank you very much.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. Well, thank you. We look forward to being in touch with you. We have some questions for the record.

[The following questions were not asked at the hearing, but were submitted to the Center for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

COOPERATIVE PUBLISHING PROGRAM

SENATOR MIKULSKI: Provide some examples where businesses and agencies have worked together to produce a publication available through CIC. Is participation in this cooperative program increasing or decreasing? What are you doing to increase these cost-effective public-private ventures?

ANSWER: Over the years, the Consumer Information Center has brought together many trade associations and corporations with Federal agencies to produce valuable consumer publications. For example, the Electronic Industries Association has produced booklets on telephones, computers, audio and video tape, and service contracts in cooperation with the Federal Trade Commission and the U.S. Office of Consumer Affairs. The American Express Company and the Department of Agriculture have collaborated on a series of money management and credit booklets, and the National Futures Association worked with the Commodity Futures Trading Commission to develop information on investing and futures trading.

Industry interest in this program is growing, although the number of private sector organizations billed for free distribution has remained fairly constant (three to five each year) over the past few years. This number may increase as we continue to build interest through presentations to local chapters of the Society of Consumer Affairs Professionals in Business and to individual corporations, trade associations, and public relations firms.

During fiscal year 1991, we will be working on cooperative publishing projects with Fidelity Investments on annuities, with the American Association of Retired Persons on financial planning and volunteerism, and with a coalition of credit organizations on bankruptcy.

GENERAL SERVICES ADMINISTRATION STAFF SUPPORT

SENATOR MIKULSKI: Your budget request includes $135,000 -- a $95,000 increase over 91 -- for payment to GSA for staff support. Can you explain why?

ANSWER: As authorized by the Treasury, Postal Service, and General Government Appropriations Act, PL 101-509, most staff support functions under the General Services Administration's General Management and Administration account were converted from direct to reimbursable funding.

The Consumer Information Center's fiscal year 1991 budget request included $40,000 to reimburse GSA for finance and payroll functions. The major change for fiscal year 1992 is an increased payment for additional support services. These services include (1) Comptroller functions encompassing budget administration, (2) legal support, (3) personnel support, and (4) administration.

NEW PUBLICATIONS

SENATOR MIKULSKI: What new publications has CIC added since last year? How popular have they been?

ANSWER: The following publications, grouped by popularity, were added to the Consumer Information Catalog during fiscal year 1990.

VERY POPULAR:

574W	Getting Skilled, Getting Ahead - ED
555X	Veteran's Handbook - SBA
516X	The Grazing of America: A Guide to Healthy Snacking - FDA
525W	Planning a Diet for a Healthy Heart - FDA
535X	Common Cold - FDA
557W	What to Do When a Friend is Depressed: A Guide for Students - NIMH
517X	A Simple Guide to Complex Carbohydrates - FDA
471X	Choosing a School for Your Child - ED
410X	Fish and Seafood Made Easy - DOC
108X	Walking for Exercise and Pleasure - PCPFS
445X	U.S. Savings Bonds: Now Tax-Free for Education - TREA
459X	Foreign Entry Requirements - DOS
151X	National Park System - Map and Guide - DOI
454X	Helping Your Child Learn Geography - ED
146X	Fly Rights - DOT
432X	Direct Deposit: A Consumer's Guide - FRB
436X	Financial Institutions: Consumer Rights - FFIEC
460X	About Fine Jewelry - FTC
411X	Cosmetic Surgery - FTC
425X	Buying a Home Water Treatment Unit - FTC
424X	When Your Home is On the Line - FRB
118X	Eating For Life - NIH

FAIRLY POPULAR:

544W	The Colon - FDA
582W	Useful Information on Phobias and Panic - NIMH
542X	Plain Talk About Depression - NIMH
506X	Federal Student Aid Fact Sheet - ED
558W	Stripping Paint from Wood - CPSC
501X	Gas Mileage Guide - DOE/EPA
524X	Smart Advice for Women 40 and Over: Get a Mammogram - NIH
114W	Books for Children, #5 - LOC
169W	Our Flag - JCP
405X	Car Rental Guide - FTC
148X	A Guide to Your National Forests - USDA
128X	Guide to Single Family Home Mortgage Insurance - HUD
142X	Doing Business with the Federal Government - GSA
153X	Recreation Guide to Bureau of Land Management Public Lands - DOI
415X	Gallstones - NIH
141X	Basic Facts about Trademarks - DOC

456X	Summertime Favorites - NEH
407X	Facts for Consumers: Vehicle Repossession - FTC
115X	Making Bag Lunches, Snacks and Desserts - USDA
449W	Telemarketing Travel Fraud - FTC
412X	Sunscreens - FTC
159X	Safety and Survival in an Earthquake - DOI

LESS POPULAR:

551X	Growing Up Drug Free - ED
577W	When Someone Close Has AIDS - NIMH
508X	Hospice Benefits Under Medicare - HCFA
543X	Plain Talk About Mutual Help Groups - NIMH
573W	A Suggested Teacher's Guide to the Consumer's Resource Handbook - OCA
566X	Taking Action Against Drugs - ACT
556X	Wage Withholding for Child Support - Employer's Guide for Small Business - HHS
461W	Peptic Ulcers - NIH
117X	Shopping for Food and Making Meals in Minutes - USDA
157X	Travel Tips for Older Americans - DOS
156W	Student Pilot Guide - DOT
471W	Infertility Clinics - FTC
112W	General Information Concerning Patents - DOC
463W	Lawn Service Contracts - FTC
170W	Radon Reduction Methods - EPA
116X	Preparing Foods and Planning Menus - USDA
457X	Take Pride in America with Mark Trail - DOI
114X	Eating Better When Eating Out - USDA
465W	Counting for Representation: The Census and the Constitution - DOC
168W	Computer Viruses and Related Threats: A Management Guide - DOC
120X	Good Sources of Nutrients - USDA

ELECTRONIC DISSEMINATION

SENATOR MIKULSKI: CIC Bulletin Board, an electronic bulletin board system, became operational last month (Jan. 1991) for the first time. This system allows individuals with personal computers to communicate directly with CIC computers. How are you advertising the availability of the new electronic Bulletin Board? What sort of response have you had so far? Do you have plans to expand this program so it's available to the general public?

ANSWER: The bulletin board will be described in a news release to be sent to more than 10,000 print and broadcast media contacts who regularly receive Consumer Information Center (CIC) information. The bulletin board will have files of CIC "New for Consumers" press releases and will facilitate access to this information for reporters and broadcast journalists.

The bulletin board became operational in January, 1991, and we are now undergoing a testing period to make sure the format, design, and content best meet media needs. We have asked some of our long-standing media contacts to use the board and to give us recommendations for improvement. CIC's news release promoting the board is scheduled to go out in late February, and we anticipate beginning to receive calls in March. Although we are promoting it initially to the media, we plan to eventually promote it to the general public.

CONSUMER PRODUCT SAFETY COMMISSION

STATEMENT OF JACQUELINE JONES-SMITH, CHAIRMAN, CONSUMER PRODUCT SAFETY COMMISSION

ACCOMPANIED BY:
ANNE GRAHAM, VICE CHAIRMAN
CAROL G. DAWSON, COMMISSIONER
ERIC C. PETERSON, EXECUTIVE DIRECTOR
CLEMENT D. ERHARDT, GENERAL COUNSEL

Senator MIKULSKI. We are now going to take testimony from the Consumer Product Safety Commission, and we want to welcome Jacqueline Jones-Smith, Vice Chairman Ann Graham, and Carol Dawson.

Ms. Jones-Smith is a Maryland constituent. Let me shake your hand over here.

Well, we welcome the people from the Consumer Product Safety Commission and we, of course, know the Vice Chairman, Anne Graham, and Commissioner Dawson.

I know that you are requesting a 1992 budget of $39.2 million, an increase of $2.1 million over fiscal year 1991, and that it is viewed as a current service budget. I am pleased to see that this funding for hazard contracts are in your budget this year and also that you were able to fully fund priority projects.

CPSC's function is vital. Products play an important part in many of the deaths in our country, and about 15,000 consumer products are within your jurisdiction. So you have plenty of work to do. We look forward to hearing your testimony and we will also be interested in talking to you about your long-term plans, your reorganization, and the CPSC's projects.

Madam Chairman, I saw you on Channel 2 and you were so good, I felt I could take notes and pass a quiz after you were finished.

Ms. JONES-SMITH. Thank you very much, Madam Chair.

Senator MIKULSKI. You are an excellent teacher and were very informative.

Ms. JONES-SMITH. Thank you very much, Madam Chair. That is one of the things we are trying to do, get information out to consumers, so they can learn how to protect themselves from some things.

Madam Chair, let me just first introduce two other people who are at the table. To my immediate right is our Executive Director, Eric Peterson. To my far right is our General Counsel, Clem Erhardt, who is also a Marylander.

Senator MIKULSKI. Who on this Commission is not from Maryland?

Ms. JONES-SMITH. Mr. Peterson is from Virginia, but we let him sit here.

Senator MIKULSKI. We will let you in.

Ms. JONES-SMITH. Madam Chair, the Commissioners of the U.S. Consumer Product Safety Commission are pleased to appear before the subcommittee today to review the President's fiscal year 1992 budget for the agency. Since the Commission's appearance before you last year, the agency has made much progress. The year ahead holds promise of even greater achievements. The support and confidence of this subcommittee, reflected in the agency's fiscal year 1992 appropriation, is deeply appreciated.

RESPONSIBILITIES AND ACCOMPLISHMENTS

Madam Chair, the CPSC has a wide range of responsibilities assigned to it by Congress. Its broad legal authority enables it to help prevent deaths and injuries through both voluntary and mandatory safety standards, information and education programs, research, product recalls, and bans of products where no feasible standard would adequately protect the public.

It is estimated that there are over 15,000 different types of consumer products that fall under the Commission's jurisdiction under the Consumer Product Safety Act alone, one of five statutes administered by this agency.

The Commission is proud of its record of achievement. In 1990, work on 11 voluntary standards was completed dealing with products as diverse as room heaters and chain saws. With the cooperation of the U.S. Customs Service, millions of dollars worth of illegal fireworks, toys, and other products were intercepted and prevented from entering the country.

Numerous corrective action plans and recalls were negotiated with industry, and the public was notified of these remedies. Furthermore, the Commission worked on 12 mandatory product safety standards, 7 of which were initiated in 1990.

From a longer range perspective, statistics show the beneficial results of the work on consumer product safety by this agency and other organizations. From 1976 to 1986, for example, there was a decline of 27 percent in the rate of deaths associated with consumer products in the United States. While these safety advances can be attributed to a number of factors, CPSC has been significantly involved in this improvement. These are the kinds of results that give us encouragement and satisfaction.

CONTINUING CHALLENGES

Nevertheless, there are still far too many deaths and injuries each year associated with consumer products. Ever-changing technology and the dynamics of our market economy constantly stimulate the introduction of new products and, consequently, new product safety challenges.

The Commission is dedicated to giving its best efforts to marshal resources in the most effective manner to meet the current product safety challenges. The agency's budget justification document sets forth details of the Commission's work during the last year and the goals reflected in this budget request.

FUNDING REQUEST

The 1992 funding request for the Commission is $39.2 million and 515 full-time equivalents. This is an increase of $2.1 million and 1 full-time equivalent over the fiscal year 1991 level of $37.1 million and 514 full-time equivalents.

The one FTE increase requested in the President's budget provides additional support for the Commission's Office of the Inspector General. This increase was recommended by the Office of Management and Budget and reflects a staffing level appropriate for agencies the size of the Commission. The proposed Office of the Inspector General staffing is 3.5 full-time equivalents.

The $39.2 million request permits the Commission to continue its ongoing projects, to establish fully funded priority projects for the first time since 1989, to respond to some new legislative requirements, and to provide a viable level of essential hazard reduction contracts.

This budget, however, does not provide funds to address any major unforeseen hazard which may be identified during fiscal year 1992 or any additional activity which Congress may wish the Commission to undertake in fiscal year 1992. As an aside, I would like to thank this subcommittee for providing the funding this year under the Fire Safe Cigarette Act, which was a new requirement given to the Commission.

PROGRAM LEVELS

The 1992 program levels reflect minor shifts among programs to account for changing program requirements. However, the $39.2 million level permits the Commission to continue all current product safety projects and preserves the goals of each program.

The Commission believes that the mix of programs represents a balanced approach to product safety concerns. The programs detect hazards, improve the safety of products, and remove hazardous products from the marketplace.

For fiscal year 1992, the Commission approved two priority projects. They are smoke detectors and carbon monoxide and fuel gas detection. Smoke detectors offers one of the most efficient means to reduce the Nation's fire deaths and injury rate. Of the 5,000 annual residential fire deaths, a substantial number occur in homes without smoke detectors or in homes with inoperable smoke detectors. The purpose of this project is to increase the residential use of working smoke detectors.

Effective detection of carbon monoxide and fuel gases can prevent up to 400 deaths annually. The purpose of this project is to reduce the deaths and injuries caused by carbon monoxide poisoning and to reduce fires and explosions caused by gas leaks. Priority funding will permit these two projects to proceed on schedule.

CONGRESSIONAL REQUIREMENTS

The Commission will address statutory requirements contained in the 1991 Appropriation Act and the Consumer Product Safety Improvement Act of 1990. The project for cigarette fire safety under the Fire Safe Cigarette Act is continued in 1992 at the level of funding recommended by Congress. The level of hazard reduction contract support added to the 1991 appropriation by Congress is maintained in 1992. ATV consent decree monitoring activities are at the same level as in 1991.

A change to the appropriation language for 1992 is proposed that would permit the crediting of user fees to the Commission appropriation. This is in response to the direction contained in the Consumer Product Safety Improvement Act of 1990 that the Commission study and report to Congress on the feasibility of user fees.

The Commission is currently studying user fee candidate projects and expects to make a report to Congress by the end of 1991, as required by the act. This language change would enable the Commission to charge and collect such fees.

Finally, the Commission's interim reorganization in response to recent congressional direction is reflected in the President's budget request. A long-range strategic planning task force is reviewing the way the Commission conducts business and may recommend other organizational changes. The Commission is also investigating ways it can expand its effect on product safety through greater cooperation with outside groups.

In conclusion, the requested level of $39.2 million represents a positive step toward maintaining a meaningful Federal product safety program. If our request is approved and with improvements in our agency's management, the Commission will carry out a balanced and effective product safety program in fiscal year 1992.

Madam Chair, the Commission would be pleased to answer any of your questions.

[The statement follows:]

STATEMENT OF JACQUELINE JONES-SMITH

Madam Chair, the Commissioners of the U. S. Consumer Product Safety Commission are pleased to appear before the Subcommittee today to review the President's FY 1992 budget for the agency.

Seated at the table with me this morning are Commission Vice Chairman Anne Graham and Commissioner Carol Dawson, and to my right the Commission's Executive Director Eric Peterson and the Commission's General Counsel Clement Erhardt.

Since the Commission's appearance before you last year, the agency has made much progress. The year ahead holds promise of even greater achievements. The support and confidence of this Subcommittee, reflected in the agency's FY 1991 appropriation, is deeply appreciated.

RESPONSIBILITIES AND ACCOMPLISHMENTS

Madam Chair, the CPSC has a wide range of responsibilities assigned to it by Congress. Its broad legal authority enables it to help prevent deaths and injuries through both voluntary and mandatory safety standards, information and education programs, research, product recalls, and bans of products where no feasible standard would adequately protect the public. It is estimated that over 15,000 different types of consumer products fall under the Commission's jurisdiction under the Consumer Product Safety Act alone, one of five statutes administered by this agency.

The Commission is proud of its record of achievement. In 1990, work on 11 voluntary safety standards was completed, dealing with products as diverse as room heaters and chain saws. With the cooperation of the U. S. Customs Service, millions of dollars worth of illegal fireworks, toys, and other products were intercepted and prevented from entering the country. Numerous corrective action plans and recalls were negotiated with industry, and the public was notified of these remedies. Furthermore, the Commission worked on twelve mandatory product standards, seven of which were initiated in 1990.

From a longer range perspective, statistics show the beneficial results of the work on consumer product safety by this agency and other organizations. From 1976 to 1986, for example, there was a decline of 27 percent in the rate of deaths associated with products in the United States. While these safety advances can be attributed to a number of factors, CPSC has been significantly involved in this improvement. These are the kinds of results that give us encouragement and satisfaction.

CONTINUING CHALLENGES

Nevertheless, there are still far too many deaths and injuries each year associated with consumer products. Ever-changing technology and the dynamics of our market economy constantly stimulate the introduction of new products and, consequently, new product safety challenges.

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This budget, however, does not provide funds to address any major unforeseen hazard which may be identified during FY 1992, any additional activity which Congress may wish the Commission to undertake during FY 1992, or to provide for program enhancements.

PROGRAM LEVELS

The 1992 program levels reflect minor shifts among programs to account for changing program requirements. However, the $39.2 million level permits the Commission to continue all current product safety projects and preserves the goals of each program. The Commission believes that the mix of programs represents a balanced approach to product safety concerns. The programs detect hazards, improve the safety of products, and remove hazardous products from the marketplace.

For FY 1992 the Commission approved two priority projects. They are Smoke Detectors, and Carbon Monoxide and Fuel Gas Detection. Smoke detectors offer one of the most efficient means to reduce the nation's fire deaths and injury rate. Of the 5,000 annual residential fire deaths, a substantial number occur in homes without smoke detectors or in homes with inoperable smoke detectors. The purpose of this project is to increase the residential use of working smoke detectors.

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CONCLUSION

In conclusion, the requested level of $39.2 million represents a positive step towards maintaining a meaningful Federal product safety program. If our request is approved, and with improvements in our agency's management, the Commission will carry out a balanced and effective product safety program in FY 1992.

The Commission would be pleased to answer your questions.

INSPECTOR GENERAL POSITION

Senator MIKULSKI. Thank you very much. We are going to move right along.

Ms. JONES-SMITH. Yes, Madam Chair.

Senator MIKULSKI. Do you have an inspector general now?

Ms. JONES-SMITH. Yes; we do.

Senator MIKULSKI. You know, we have never seen an inspector general's report from you.

Ms. JONES-SMITH. We submit them annually, as required by the Inspector General Act, and have been.

Senator MIKULSKI. Well, my staff tells me that one has never made its way to this subcommittee.

Ms. JONES-SMITH. We will check into that, Madam Chairman.

Senator MIKULSKI. Would you, please. Perhaps we ought to get the ones from the last 3 years.

Ms. JONES-SMITH. Certainly; we will.

Senator MIKULSKI. Then we can look them over and see what their views are of the agency, because we have found the inspector general's reports often very helpful as we work on management issues. They often have very resourceful and creative ideas on more efficiencies in management.

I know this is an area that we are now going to be focusing on with the agency.

Ms. JONES-SMITH. Yes.

STRATEGIC PLANNING TASK FORCE

Senator MIKULSKI. Which takes me to the strategic planning task force, which I think is really crucial. As you know, we want to be able to see more of CPSC's resources going into consumer product safety and the wisest use. With the caps on spending, we want to make every dollar counts.

So when will the strategic planning task force make its recommendations to you and the public?

Ms. JONES-SMITH. At this point, Madam Chair, we anticipate that by the end of June the Commission will be presented—and these are rough estimates—with a briefing package for its approval with regard to a plan. The plan will be pending Commission approval, as we did with interim reorganization, because aspects of the plan most likely will involve, staffing. We must provide time in which we have to give notifications.

Also, we intend to brief the subcommittee staff and keep them up to date. We intend to solicit outside comment from our constituent groups through a public hearing.

Senator MIKULSKI. Madam Chair, that is my question. First of all, who is on this task force? Is it internal or internal-external? And will you also be seeking consultation from users of the agency services?

Ms. JONES-SMITH. The task force is an internal task force, composed of employees that represent various levels and various disciplines within the agency, various periods of longevity within the agency. We tried to find a very representative group that reflects both the agency's expertise and also longevity and experience within the agency.

The Commission itself, the collegial body, has met and we have provided some guidance for that task force. The task force will be internal. It will be working on studies, and then, at a point, we think before the end of June, we plan to have a public hearing to solicit comment.

As you know, we deal with various constituent groups and industries.

Senator MIKULSKI. I know you do.

Ms. JONES-SMITH. We are going to solicit outside comments and we intend to brief the various congressional committee staffs on a periodic basis. It is anticipated that a package will be presented to the Commission for its approval once this has been completed at the end of June, and we hope to begin implementation at the beginning of fiscal year 1992.

STAFFING AND RESOURCE LEVELS

Senator MIKULSKI. Madam Chair, do you anticipate that, based on what you already know, the task force will recommend a redeployment within the agency of its resources or the need for more resources?

Will you need more money, less money, or are you going to kind of redeploy it in a way that the plan suggests would maximize effectiveness?

Ms. JONES-SMITH. I do not anticipate a shrinkage in our current staffing or in our current resource levels. This agency operates, Madam Chair, essentially, in terms of organization and how it handles problems, the way it did when it first began. As we all know, technology has changed. We are in a constant state of new products coming into the marketplace. We see differing attitudes by industry and various groups toward product safety.

It is important that the agency structure reflect the most current product safety concerns of the day: What are we focusing on? Are more of the problems technical in nature? Are more of the problems based on consumers' use of products?

We do not know, and that is what we have to look at. I do not anticipate that this will result in any kind of shrinkage. What I think it will result in is a more efficient redirection and redeployment of our staff in the areas that are the most important.

Senator MIKULSKI. Ms. Graham, Ms. Dawson, do you want to comment on that at all?

Ms. DAWSON. I think the Chairman has articulated it very well. I think it is important for the committee to understand that when the agency was established 17 years ago it was anticipated that it would deal mainly in rulemaking. And of course, although we do rulemaking, we do quite a few other things as well now.

I think it was time for a self-assessment of how we do. Are we doing well in some areas? Could we do better? What are the things that we would like to do better? That's basically the kind of thing we have asked the staff to examine for us.

And, of course, we will look at what they come up with, reflect on that, and decide how we can do things better. That is basically why we initiated the long-range planning project.

Senator MIKULSKI. Ms. Graham?

Ms. GRAHAM. I would simply say that I think we need to look at ways to decentralize and streamline the Commission, and that another important factor that I am going to look carefully at is making sure the components that drive the Commission, such as compliance and human factors and engineering, have the support from the rest of the Commission to be as effective as possible.

Ms. JONES-SMITH. Let me just add to that, Madam Chair, and say that I do not see strategic planning as a one-time thing. It is something that, in the environment that we are dealing with, the industry groups, the products that are coming in, is an ever-changing process.

Planning is something that most businesses do on a regular basis. It is something that should be ongoing. I hope, although this task force certainly has some immediate goals for implementation in fiscal year 1992, it will not end in fiscal year 1992. I want us to continue to keep this going.

We have to continually assess where this agency is and where it is providing services vis-a-vis the environment. What the real problems are out there? What are the needs? What is the fiscal environment in which we find ourselves? So strategic planning should be and will be an ongoing process in which we are constantly adjusting the agency.

It is much harder now to try to make an adjustment to an agency after 17 years, and it will certainly be less traumatic if we continue this self-assessment and keep adjusting as times move on.

RISK-BASED ASSESSMENTS

Senator MIKULSKI. Well, the Commission came into being 17 years ago and since then the nature of products has changed. The issue of foreign imports, particularly those that violated intellectual property rights, that are quite dangerous to our consumers, the shampoos purloining a well-known brand with faulty chemicals that can injure a consumer, the things that we have seen that Customs has seized in Baltimore, bumpers with a well-known American automobile manufacturer's logo on it, counterfeit, that even someone as slight as I am could crack it.

Nobody saw those kinds, anticipated those issues, in 1973, and then all the other things that have come on. In one way, it has been a cornucopia for consumers, and in others there has been either sour or poisonous grapes in the cornucopia.

So you have got a big job, and this then takes me to something that I have been doing with EPA and with FEMA, who are also involved with the risks facing the American people. I have asked them to organize their thinking according to a risk-based strategy. If I could, to just talk about FEMA, they have done a lot of their planning and a lot of their resource development in protecting the United States of America from a nuclear attack. But we are more likely to be hit by natural disasters or some eco-disasters, not to minimize our national security needs. But to focus on what is the greatest risk, we said to FEMA, beef up the Fire Academy, and the fact that it happened to be in Maryland was a side objective.

But, as you know from your smoke detector project, more Americans can die in fires because of falling asleep with cigarettes.

My question to you is, as you are looking at the wide range of issues, there is so much for you to do. There is no end for what you can do, and it is very hard to set boundaries and priorities. We would like the resources of the agency to be based on a risk-based strategic plan.

Could you tell us how you are operating in that area? How does the Consumer Product Safety Commission develop project priorities, and are those priorities based on which products pose the greatest risk to consumers?

Ms. JONES-SMITH. Actually, Madam Chair, the way you described a risk-based assessment is the way the Commission, under its statutes and regulations, selects priority projects. The Commission's regulations specify about six or seven general criteria that the Commission must look at in determining which of its projects to select as priorities, and that includes the frequency and severity of the injuries, the causality of the injuries, chronic illness and future injuries, the unforeseen nature of the risk, the vulnerability of the population that could be involved, the probability of exposure to the hazard, and the costs and benefits of Commission action.

Those guidelines look at the many components that are involved in essentially risk assessment with products. Those are the factors that the Commission is required to consider. Those are the factors that the Commission considered in choosing its two priority projects which, as you can well see, deal with fire, which is the No. 1 cause at this point of accidental death and injury in the home.

Fire affects all people. It is, unfortunately, as I call it, an "equal opportunity" hazard. Fire affects all people from all walks of life. Carbon monoxide and fuel gas detection are especially important. With the issue of odorant fade, there is certainly a vulnerable population of elderly persons who are affected by that hazard. The exposure is great.

In the case of smoke detectors, the fix seems to be two-pronged. The fix may be, hopefully, simple in terms of existing technology with regard to operating detectors: possibly redundant systems, possibly long-life batteries.

The other half of the problem is to get people who have smoke detectors in their homes to, first stop disarming them, as many people do; and for those people who do not have smoke detectors, to get detectors in the home. We want and hope to work with model building code organizations in an effort to get these items into the home.

Those are the factors we look at in choosing priorities.

Senator MIKULSKI. Ms. Graham, Ms. Dawson, do you want to comment on those at all?

Ms. DAWSON. Yes; I understand what you are talking about, Madam Chair. I think it would be an ideal situation if we could base all of our planning on this risk-based strategy. There are no easy answers to that, however.

The problem is that whenever you have a product that causes death and injury, it is a serious problem. We do try to apply that kind of thinking in most areas. Of course, we also are subject to petitions from outside. Anyone can petition the Commission to look at an issue.

But there is another factor that needs to be considered in what we do. That is that, we perform a very critical function, in that we are the only agency that really collects good data on death and injuries related to consumer products. That is one area on which we continually have to work and improve. When we get that data, we should share it, not only with the companies that make the products, but with the States and localities, and even with other countries, because, as we are seeing now more and more——

Senator MIKULSKI. Or with other Federal agencies, like Customs, on these phony products or defective products.

Ms. DAWSON. Which we do—working very closely with Customs. But I am talking about—for example, that the European Community is working very hard to harmonize its standards procedures—and I think we can probably do a lot of good by sharing the information that we get about hazardous products with countries that export to the United States, because they can begin to improve their products before they even reach our shores, and that would be the ideal situation.

Senator MIKULSKI. Ms. Graham.

Ms. GRAHAM. Madam Chair, the only thing that I would add to all of this is that when we are analyzing the risks I think it is important to consider the dynamics of the family and how it has changed, how children are left alone so much longer.

Senator MIKULSKI. That is why the smoke detectors are so important.

Ms. GRAHAM. And address the most vulnerable populations at the same time.

Senator MIKULSKI. I think that is an excellent point.

We had a great project in Baltimore called Blue Chip, where the private sector did many fine things, one of which was to get smoke detectors in the homes in poor neighborhoods. We got the detectors in, but then they did not replace the batteries.

For many of the people, particularly the elderly, some of the elderly just did not know how to replace the battery. So we encouraged the fire department to go into the neighborhoods and some of the other human service agencies, to do that.

But it has a tremendous impact again on these at-risk populations, where children are likely to be left alone. The elderly cannot move out quickly, a flash fire on the kitchen stove type thing, and so on. So I concur with that.

PROJECT CONCLUSION

We in Government are often accused of being very good at starting projects, but not knowing how to end them. I wonder, what is your criteria for bringing a project to conclusion, because, you know, particularly some of these issues have a way of just going on and on?

Ms. JONES-SMITH. First, let me say that the Commission continues a project until an effective remedy is achieved or until injury data or other information shows, demonstrates, that the need is not there. Sometimes projects end in a mandatory or voluntary standard.

It is interesting. I have been meeting with a number of groups across the country. I think to a lot of people, especially concerning the Commission, hear about our projects, hear general names, and think things have been going on for 10 or 15 years. What they may not realize, however, is that in some cases we have a project by name, but actually there have been several iterations of this project.

Ms. JONES-SMITH. The bicycles that we all saw in the seventies are clearly different from these high tech things that we are seeing now. In the seventies, the Commission promulgated a mandatory standard which dealt with many of the technical aspects of bicycles that existed then.

As you know, bicycles have since changed, and also rider patterns have changed, use of bicycles have changed.

Senator MIKULSKI. Right.

Ms. JONES-SMITH. We are still seeing injuries and deaths in bicycles, however. So now we have started a new project and we are looking anew at that. It is not the same bicycle. I almost wish we could look back on this and call it bicycle 1, 2, 3, 4, 5. It is not the same bicycle project that people may have been aware of that started many, many years ago.

We did achieve what we wanted to achieve in the first project, which were technical requirements to a mandatory standard. However, given the injuries and deaths that we are seeing with bicycles and the fact that the technology has changed and new things are introduced, such as helmets, we are now looking at those factors again.

Senator MIKULSKI. What is your criteria for coming to closure?

Ms. JONES-SMITH. As I said, it is when we have achieved an effective remedy. For example, for some projects the goal of the project may be a voluntary or mandatory standard, in place and working. Or the goal of the project, once we set out to collect information, may be to produce information or a pamphlet. The Commission did a study on swimming pool injuries and drownings. The goals of that project, the results of the Commission's study, are that we have worked with model building code organizations, State and local entities, and now a number of local jurisdictions, Texas, for example, which have swimming pool barrier requirements.

Montgomery County recently adopted barrier legislation for swimming pools. That is an area where the Commission's research was completed for a number of years, but the remedy for solving this problem was better handled at the State and local level. So the achievement depends. It varies with the hazard. It varies with the project.

Senator MIKULSKI. I think we have an idea.

We have many other questions, but we are going to submit some of them for the record.

PUBLICATION DISTRIBUTION

My last one: As you have been waiting patiently to testify, you have heard the Consumer Information Center and how effective it is. I, first of all, understand you put out quite a wide range and a comprehensive list of consumer information books and tips, but you do not use the Consumer Information Center to distribute your publications.

Ms. JONES-SMITH. We do use them for some of our publications. I know we just produced a number of handbooks that are being distributed through the Consumer Information Center, but I do not remember which ones they are. But we have used them in some instances.

Also, I met with Mrs. Nasif earlier this year and we are looking at——

Senator MIKULSKI. Oh, good.

Ms. JONES-SMITH. We met earlier this year and we were looking at other ways of exploring getting out better information based on some of the things we do, recall information, other types of things. I cannot think of some of the publications that we distribute, but we could provide you with a list.

Senator MIKULSKI. Well, I would like you to review it.

Ms. JONES-SMITH. Indoor air quality, we just put out a publication on indoor air quality.

Senator MIKULSKI. I would like you to review the list of what you distribute and what you do there and see if we cannot maximize these resources. It is my observation in all agencies that the Government often produces some of the most useful information and that it sits there.

I know that part of your really outstanding education is you have a master's degree in library science, and you know that a book on the shelf is not only lonely, but a wasted resource. Your pamphlets, once they are printed, once they are distributed, are so useful.

Right now we are into the maximum way of distributing them. So we would like you to review that, see how you do work with CIC. I know you have had the meeting.

Ms. JONES-SMITH. One of the things that we have started, Madam Chair, is a task force on information. We are trying to find more and better ways of working with outside organizations to get information to consumers, not just print information, but we have a population now that does not read.

Many people do not read. Many people are not English speaking. Many people are not reading pamphlets and books. So we are trying to find, not just maximize our ways of getting information out, our printed information out through avenues, but we are trying to find better and more ways of reaching consumers with targeted efforts, as in my Channel 2 appearance. People are watching TV, unfortunately. You cannot get all messages to them, but if you get some targeted messages to them they will learn something.

So that is one of the task forces we have started, to look at that and improve upon that.

Senator **Mikulski**. Well, I will tell you, this is so interesting. We could go on, but I have other duties and I know you do as well. We want to thank you and we want to thank all the Commissioners for their work. We will be looking forward to talking with you as we go through the process.

Please, America needs you. Keep up your own good work.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

REORGANIZATION/LONG-TERM PLANS

SENATOR MIKULSKI: What are your long-range plans to devote proportionately more resources to program areas rather than agency management? Why did your budget submission to OMB (p.68) show that agency management is projected to remain the same from 1991 through 1996? How will the recent reorganization of CPSC staff make better use of CPSC's limited resources? How will it improve management of CPSC's projects?

ANSWER: The goal of the Commission's long-range strategic planning effort is to identify options and recommendations for the agency's future. The outcome of this effort may direct more resources to program areas away from agency management. However, CPSC, like most other agencies whose budgets have been held at the same or lower levels for the past ten years, but whose program mission has not diminished, has been required to absorb virtually all personnel and inflationary cost increases by reducing non-personnel program costs.

The September 1990 budget submission to OMB (p.68) did not reflect the recent reorganization. In accordance with OMB guidance, all programs were projected to remain the same from 1991 through 1996. Since CPSC just began the long-range strategic planning effort, the results of this effort will be shown in the January 1992 submission of the Fiscal Year 1993 Budget.

The recent interim reorganization of CPSC directs more of the agency's personnel to actual hazard identification and reduction, compliance and enforcement, and consumer information activities. The interim reorganization also streamlined and improved the agency's budget and planning process. The budget function now reports directly to the Executive Director who provides oversight of agency-wide budget planning operations. The past overlap in managerial responsibilities was eliminated. Direct management responsibility for hazard projects has been given to the technical directorates. This will result in quality work products being delivered in a timely manner.

The combination of the anticipated changes resulting from the long-range plan and the effects of the interim reorganization should go a long way in addressing the Subcommittee's concerns.

CPSC INFORMATION SOURCES

SENATOR MIKULSKI: How would you assess the status of the information CPSC has to work with -- is it adequate to determine which products pose the greatest risks? Are you exploring other ways of getting information? For example, the Coalition for Human Health and Safety suggested that you consider a system whereby injury information contained in open insurance claims could be shared in a strictly confidential manner with CPSC.

ANSWER: CPSC collects the most comprehensive surveillance data currently available in the injury control field. These data generally meet CPSC's needs to identify risks associated with products. There are, however, improvements which could be made to make overall injury surveillance more efficient and useful. For example, the National Electronic Injury Surveillance System (NEISS) could be enhanced by using an additional code element on the surveillance report called "E codes" from the International Classification of Diseases. These codes are the most widely used coding scheme in injury mortality and would make the agency's non-fatal injury data much more useful to CPSC and other agencies as well.

Additional poisoning data could be collected from NEISS hospitals which have poison control centers, and coordinators could be placed in 25 of the hospitals to perform additional quality control and follow up on reported injuries.

CPSC is always looking for new sources of information both generically and product specific. The staff had previously made inquiries into the possibility of gathering information from open subrogated insurance claims and found that the insurance companies, while sympathetic to the Commission's needs, were generally not willing to share the information if litigation was pending. Since CPSC action on a product would make the issue public, the Commission cannot guarantee confidentiality of such information. This, combined with the fact that most companies may be involved in litigation, makes the companies prefer to only provide closed cases. A few reports have been received from insurance companies, but only infrequently, and generally so long after the incident that the Commission had learned of the hazard from incident data already collected.

MANDATORY VS. VOLUNTARY STANDARDS

SENATOR MIKULSKI: How does CPSC decide to go with a voluntary standard rather than a mandatory standard? Do you think CPSC has been relying too heavily on voluntary standards? How do you monitor compliance with voluntary standards? In developing a voluntary standard, are all interested parties encouraged to participate, particularly consumer groups? If so, how do you encourage participation? If not, why not?

ANSWER: The Consumer Product Safety Act requires the Commission to consider the adequacy of any applicable voluntary standards before issuing a mandatory standard. There are similar provisions in the other major statutes administered by the Commission. If persons subject to a potential rule have adopted and implemented a voluntary safety standard, the Commission may not promulgate a consumer product safety rule unless it finds that;

- Compliance with such voluntary consumer product safety standard is not likely to result in the elimination or adequate reduction of the risk of injury, or
- It is unlikely that there will be substantial compliance with such voluntary consumer product safety standard. (Section 9 (f)(3)(D), 15 U.S.C. 2058)

The Commission does not hesitate to begin mandatory rulemaking when the conditions above have been met. For example, the agency recently began rulemaking actions to address suffocation hazards with infant cushions; choking hazards presented by balloons, small balls, marbles, and other children's toys; strangulation hazards presented by crib toys; and hazards presented by reloadable mortar shell fireworks. Voluntary standards provisions for crib toys and balloons were in existence or under development when the Commission voted to issue an advance notice of proposed rulemaking in these areas.

CPSC monitors conformance with some voluntary standards by inspecting manufacturers or importers, examining import shipments in cooperation with the U.S. Customs Service, testing product samples or obtaining information from third-party certification organizations. The Commission also has a project that provides a thorough conformance monitoring effort on one voluntary standard each year.

CPSC makes every effort to encourage all interested parties to participate in voluntary standard development. Approximately 90 percent of the Commission's voluntary standards development projects are coordinated by national consensus voluntary standards coordinating groups (e.g., ANSI and ASTM) whose procedures require an equal opportunity for participation by all affected parties.

ALL-TERRAIN VEHICLES

SENATOR MIKULSKI: How has compliance with the ATV consent decree improved since last year? What percentage of ATV dealers have been identified as remiss in following age recommendations and how does that compare to last year? Please explain the new monitoring program negotiated with 4 of the 5 distributors, and how it will improve compliance.

ANSWER: Generally, the Commission's monitoring has shown a high level of compliance with the ATV Consent Decrees. However, one area that has been of major concern to the Commission involves the degree of ATV dealer compliance with the age recommendation requirements contained in the consent decree. The Consent Decrees require that the ATV distributors make best efforts to assure that their dealers (who are not parties to the decree) comply with the age recommendations set forth in the decree.

The CPSC nationwide undercover survey of ATV dealers in 1989 revealed that approximately 56% of dealers made improper age recommendations. After the results of the Commission's survey were released in November 1989, the distributors once again advised their dealers of the absolute necessity of complying with the age requirements, and threatened dealership terminations if violations continued. In fact, the distributors initiated termination actions against at least 13 dealers who continued to be in violation of the age requirements after violations were found during the CPSC survey.

During 1990, the Commission conducted 70 undercover inspections of ATV dealers to determine whether such dealers were complying with directives of the distributors pertaining to the age recommendation requirements. The inspections disclosed that 23 dealers, or approximately 33% of ~~the 70 de~~alers inspected, recommended one or more inappropriately sized ATVs. The non-compliance rate for dealers of four of the five distributors subject to the consent decree ranged from approximately 13% to 19%, while dealers of the remaining distributor had a non-compliance rate of approximately 43%. Since the dealers inspected during 1990 represent a small sample and were not selected randomly, as was the case with the 1989 nationwide survey, the results of these "spot" investigations cannot be projected to all ATV dealers with any statistical validity.

The agency is working with the ATV distributors to further reduce the rate of dealer non-compliance with the age recommendation requirements. Most significantly, all five of the distributors have entered into agreements with the Commission whereby each distributor will conduct undercover inspections of approximately 25% of their dealers during both this year and next. All monitoring is to be conducted by independent firms. Approximately 10% of the monitoring is to be performed by on-site undercover investigations, while the remaining monitoring can be done by undercover telephone monitoring. The distributors are required to re-monitor violative dealers. Absent compelling circumstances, the distributors are required to terminate the franchise of dealerships that are found to be in violation of the age requirements a second time.

The Commission staff is closely reviewing quarterly reports submitted by the distributors, to assure that those actions agreed to by the distributors in their monitoring agreements are being carried out fully. Additionally, the Commission staff continues to conduct a significant number of undercover inspections of ATV dealers throughout the country, and reports violations of the age recommendation requirements to the distributors for appropriate action, including possible termination in accordance with the terms of the monitoring agreements. These activities by the distributors and by Commission staff should result in a substantial improvement in dealer compliance with the age recommendation requirements.

CPSC PUBLICATIONS

SENATOR MIKULSKI: I note that you will distribute about 1.5 million publications through a private contractor in 1992. Why aren't all of your publications distributed through the Consumer Information Center -- wouldn't that be more cost-effective? The Office of Consumer Affairs is developing a leaflet on product safety for consumers. Why isn't CPSC doing this? What is the average price of one of your publications? CPSC is printing 15 publications in 1991 and plans to do the same number in 1992. In 1990 you printed 24. Why have you decreased the number of publications printed by 38%?

ANSWER: The Commission distributes several publications through the Consumer Information Center (CIC). The current CIC catalog lists three CPSC publications. However, CIC is not a full-service center and does not provide warehousing and related services for all materials from Federal agencies. Rather, CIC is selective about what publications to accept for listing in the CIC catalog and for subsequent distribution. It is our understanding that CIC considers several factors such as subject-matter, anticipated demand, whether sufficient copies are being printed, and if there is funding available to pay for distribution and postage. While CIC will continue to distribute some CPSC publications, they would not agree to distribute all of them.

CIC is especially well suited for large volume items with wide audience appeal, and it is that type of publication CPSC is interested in distributing through CIC. CPSC and CIC staff members regularly meet to discuss new publications that might be appropriate for CIC distribution. The most recent meeting led to the listing of the Safety Alert on Lead-Based Paint in the CIC catalog.

Under the Commission contract with the DC Association for Retarded Citizens, the cost for distributing one copy of one publication is approximately

11 cents for storage and handling plus at least 29 cents postage, depending on the size and weight of the publication. It costs CPSC from 40 to 60 cents to fill an order for a single copy under this contract, comparable to CIC costs. Therefore, it is not more cost-effective to distribute publications through CIC. All publications currently distributed through our contract warehouse are free to the public.

The U.S. Office of Consumer Affairs (USOCA) is developing a reference publication summarizing the activities of Federal safety agencies and the services offered to consumers, such as hotlines and complaint taking. It is intended to refer consumers to the correct agency having jurisdiction over a product in question; it does not address specific product hazards. The USOCA publication will actually complement the efforts of Federal safety agencies like CPSC. Once consumers with product safety concerns within CPSC's jurisdiction are referred to the agency, either through the USOCA publication or through other means, CPSC staff can then provide the specific product safety information sought.

CPSC's printing budget in 1991 and 1992 is smaller than it was in 1990. In 1990, the Commission was able to reprint sufficient quantities of the most popular publications, thus reducing printing needs in 1991 and 1992 without reducing the scope of the publication program. While fewer titles will be printed in 1991 and 1992, the same number of titles and quantity will be available to the public. Finally, CPSC is also exploring private/public partnerships that would identify new resources for printing Commission materials.

BICYCLES

SENATOR MIKULSKI: You are currently studying bicycle-related injuries, but in the meantime, what are you doing to prevent bicycle-related injuries? When can we expect to see revisions to the existing mandatory standard for bicycles? How is CPSC educating the public about helmet use and safe riding tips?

ANSWER: The Commission developed mandatory bicycle regulations in the 1970's and has enforced these regulations since that time. These regulations contain extensive design and performance requirements for bicycles. Since these regulations were developed, new types of bicycles have appeared on the market and bicycle use patterns have changed.

The 1991-1992 bicycle study will include a comprehensive examination of bicycle use and hazard patterns and risk factors. The results of this study, which is scheduled to be completed in the fall of 1992, will be used to determine if revisions to the existing mandatory standard for bicycles are needed.

Although the study of bicycle-related injuries is just beginning, the CPSC continues providing information to the public about bicycle safety. In 1989, CPSC issued a "back to school safety alert" urging parents to include helmets on the list of items for those youngsters planning to bike to school. This was followed in 1990 with a CPSC Safety Alert on sports-related head injuries, urging helmet use for several activities, including bicycling.

Further, a bicycle safety leaflet developed jointly with the National Highway Traffic Safety Administration (NHTSA) is about to be distributed publicly. This leaflet was developed under the auspices of a memorandum of understanding between CPSC and NHTSA to share and coordinate information on bicycle safety issues. It includes a discussion of the importance of bicycle helmets, the use of proper clothing and bicycle safety reflectors, and following rules of the road.

CPSC regional offices also network with 102 state and local Safe Kids Coalitions in 40 states on cooperative efforts to promote helmet use and bicycle safety. These efforts include: helping to arrange discount helmet purchase programs; encouraging stores to stock helmets; conducting school programs; and informing the press about bicycle safety issues.

In addition to these informational activities, the CPSC engineering staff is currently conducting "roll-off" tests to determine how well helmets stay on in the event of a bicycle accident. Roll-off tests have been proposed for the ANSI voluntary bicycle helmet standard and our staff is helping the ANSI committee develop an appropriate test requirement for the standard.

CPSC staff is also evaluating a petition requesting rulemaking to set standards for bicycle helmets. The Commission will make a decision on this petition later this fiscal year.

SMOKE DETECTORS

SENATOR MIKULSKI: What tactics do you plan to use to convince consumers to install smoke detectors, and to check that their detectors are working properly?

ANSWER: The Commission's smoke detector project intends to address the approximately 5,000 deaths that occur every year in residential fires. Smoke detectors have proved to be effective in preventing fire casualties.

Past efforts of the fire services and others have expanded the number of residences with installed detectors. However, the placement of detectors among lower income residences appears to be much lower than among other residences. Further, there is a growing apprehension in the fire community that a substantial number of installed detectors may be disabled or inoperative, thereby preventing adequate protection.

The goals of the program are to:

- o renew efforts to convince consumers (primarily low-income) to install detectors properly;
- o determine the nature and extent of the non-working detector problem;
- o convince consumers to maintain installed detectors and avoid nuisance alarms;
- o expand provisions for detector installation in building codes;
- o stimulate new technology to address identified problems; and,
- o incorporate the new technology into standards and codes.

The Commission, in partnership with the Congressional Fire Services Institute, the U.S. Fire Administration, and the National Fire Protection Association, has developed the multi-year program to involve the cooperation and support of a national network including Federal agencies, Congress, fire service organizations, consumer organizations, States, standards and codes organizations, the insurance industry, corporations, trade associations, the media, and others.

Through this coalition a national network of people with interest and expertise in this field is being organized. The first meeting is scheduled for March, 1991. Specific tactics to convince consumers, especially low income and minority groups who lag behind the rest of the U.S. population in installing detectors, to install detectors and to check proper operation will be developed by this network for implementation in 1992. There has been some success on a regional basis by using local or community organizations known to the target groups. This approach will be thoroughly considered.

PUBLIC INFORMATION SERVICES

SENATOR MIKULSKI: At the start of FY 91 CPSC had 940 pending Freedom of Information Act (FOIA) requests. This is about 10% of the total number of FOIA requests expected to be received in FY 91. Why were there so many pending Freedom of Information Act requests at the beginning of FY 91, and why do you expect a comparable number in FY 92? Page 50 of your budget request indicates that computerization of FOIA requests will increase efficiency. In addition, you are asking for an additional staff-year in Public Information Services. Why then do you expect to have 1,040 pending requests at the end of FY 92?

ANSWER: The Commission's average response time to FOIA requests is very good. Fully 60% of the requests are responded to within ten working days.

There will always be some pending requests because the Commission receives about the same number of new requests each month as it completes. However, our experience has shown that the number of FOIA requests continues to grow steadily. The increase in requests pending reflect a projected increase in total requests from 1991 to 1992. While the computerization of FOIA activities will reduce overall processing time for individual requests, pending requests will still grow slightly because of the overall increase in requests received. Without the new resources, the backlog of requests would grow. The additional staff time represents increased legal assistance to support the increased rate of total requests received.

CHEMICAL HAZARDS

SENATOR MIKULSKI: Many chemicals used in consumer products have been found to cause adverse acute and chronic health effects. How do you ensure that consumer products containing toxic chemicals are properly labeled to warn consumers of the health risks associated with these products?

ANSWER: The Federal Hazardous Substances Act (FHSA) requires that hazardous household products bear appropriate cautionary labeling to warn consumers about their potential hazards and provide adequate directions on how they may be safely used. This requirement does not distinguish whether the hazard is acute or chronic and applies as well to other hazards such as flammability, irritation, corrosiveness, or pressure. The responsibility for complying with this requirement rests with the manufacturer or repacker of the product.

The Consumer Product Safety Commission has the responsibility for ensuring that manufacturers and repackers are complying with the labeling requirements. This is accomplished in a number of ways, including inspection of manufacturing plants, examining imported products, responding to consumer and trade complaints, analyzing samples, and examining products at the retail level.

The FHSA was amended by Public Law 100-695, the "Labeling of Hazardous Art Materials Act" (LHAMA) to assure that art materials posing a chronic hazard also are properly labeled. LHAMA amended the FHSA by designating the ASTM Standard Practice for Labeling Art Materials for Chronic Health Hazards (ASTM D 4236-88) as a regulation under the FHSA. The requirements of the LHAMA became effective on November 18, 1990. These requirements apply to art materials, as defined in that act, that are intended for use in the household or by children.

The requirements imposed by LHAMA are in addition to those already existing under the FHSA. The amendments will require all producers or repackers, including importers, of art materials to submit all art material formulations to a toxicologist for review, describe in writing the criteria used to review the products, submit those criteria along with a list of products requiring chronic hazard labeling to the CPSC, and provide the purchaser with a statement that the product conforms to ASTM D 4236.

The LHAMA also directs the Commission to issue guidelines specifying criteria for determining when any customary or reasonably foreseeable use of an art material can result in a chronic hazard. Draft proposed guidelines have been prepared by the staff and are being considered by the Commission.

RECALLS

SENATOR MIKULSKI: The Office of Consumer Affairs recently formed a Working Group on Product Recalls to improve consumer awareness of product recalls. Why isn't CPSC undertaking this activity. Is CPSC involved in the Working Group on Product Recalls? If so, how is CPSC involved? What else does CPSC do to inform consumers about recalls?

ANSWER: Staff from the Commission Offices of Information and Public Affairs, and Compliance and Enforcement are continually searching for new and innovative methods of product recall in an effort to improve response to recall announcements. The CPSC is not leading this activity primarily because CPSC is only one of several Federal agencies with recall responsibility.

As part of these efforts, the staff is participating with the President's Consumer Adviser, along with various other federal agencies responsible for product recalls. The purpose of the "Working Group on Product Recalls" is to improve and encourage dialogue between federal agencies with recall authority, assess current agency recall activities, explore new ways to reach the public with recall information, and improve consumer response to recall notification. Agencies participating are NHTSA, Coast Guard, FDA, HUD, BATF, FTC, EPA and the Department of Agriculture.

The Commission pursues several activities to inform consumers about recalls. The Commission has a toll-free hotline which maintains information on all Commission recalls. The toll-free number is publicized as a resource available to consumers for further information on recall announcements.

Recalls are developed in cooperation with manufacturers, importers, distributors and retailers. A recall is generally part of a voluntary corrective action plan proposed and implemented by a recalling firm. The purpose of this plan is to inform consumers of the existence of a defective product and to remove a defective product from the distribution chain and consumers.

Corrective action plans consist of various notification measures targeted to the likely owners of the defective product. Such measures may include issuance of a news release with the firm, point of purchase posters, direct owner notification, video news release, radio announcements, advertising in selected newspapers and magazines, posters in medical offices, repair centers, day care centers, letters to the distributors/retailers etc.

In addition to notification to the news media in an effort to receive as extensive as possible coverage of safety recalls, the Commission publicizes safety recalls through its contacts in state and local consumer protection offices. These offices include cooperative extension agents, consumer affairs offices, departments of health and attorneys general.

CLEARINGHOUSE

SENATOR MIKULSKI: CPSC's clearinghouse is responsible for responding to Freedom of Information Requests for injury data and filling information requests from staff and others. Your budget (p.48) indicates that there were 45 pending requests at the start of 1991 and that you expect 45 to be pending at the start of 1992. Why should there be any pending requests at the start of a year? How long does it take to process a request for information?

ANSWER: There are always some requests in process because requests are received on a daily basis. Under the Freedom of Information Act, the Clearinghouse receives approximately 100 requests for injury data per week. The data requests currently being worked on, and not as yet completed by staff, are automatically carried over to the start of the next year. Those data requests are considered to be pending or "in process" at the start of the year. Processing of data requests range from five days to retrieve, process, and send preprinted material, up to 60 days for brand name data and very large requests. Most requests are filled within two weeks.

FLAMMABLE CLOTHING

SENATOR MIKULSKI: CPSC had planned to undertake a project in FY 91 to develop a labeling rule about flammability of nightwear for the elderly, but subsequently voted against proceeding with the project. However, a CPSC study found that nightwear was involved in more than half of the apparel fires involving persons age 65 and older. Given this information, why did CPSC drop the nightwear for the elderly in FY 91? Are you doing anything to educate the elderly population about flammability of nightwear? The current standard for children's sleepwear requires that they be flame resistant. Do you think this standard should be extended to adult nightwear?

ANSWER: The Commission decided, in FY 90, not to proceed with a mandatory labeling rule because the available information was not sufficient to support a finding that the product presented an unreasonable risk to the public. While the data established that clothing fire deaths to the elderly were a serious problem, they did not firmly establish the relative involvement of nightwear and other garment types in these fire deaths.

The Commission has cooperated with the Administration on Aging, HHS and the American Association of Retired Persons (AARP) in efforts to inform the elderly about this problem. A brochure was developed by an ad hoc committee on flammability, which was published and distributed by AARP. Commission staff has provided additional information to the Administration on Aging for its utilization.

As discussed above, the available data do not support a finding that unreasonable risk exists with nightwear worn by adults. Therefore, these data also do not support extending the flammability standard for children's sleepwear to adult nightwear.

USER FEES

SENATOR MIKULSKI: What is the status of your study on user fees? Do you support the concept of user fees?

ANSWER: The study on user fees has begun. The study will be considered by the Commission at the same time the Commission considers the staff's recommendations for the 1992 Operating Plan. The results will be reported to

Congress by November 16, 1991, within one year of the enactment of the CPSC's reauthorization act, as directed by Congress.

The Commission supports the concept of user fees and has requested that language be added to the 1992 CPSC appropriation that collections from user fees may be credited to the agency's appropriation.

PUBLIC/PRIVATE PARTNERSHIPS

SENATOR MIKULSKI: In a December 24, 1990, Product Safety Letter, Mr. Eric Peterson discussed the public/private partnership initiative and task groups. Please describe this initiative and how they will help CPSC to accomplish its mandate.

ANSWER: Chairman Jones-Smith created a staff study and task group to recommend strategies the Commission may consider for developing new financial resources and leveraging existing resources to enhance CPSC's mission. The task group efforts focus on fostering partnerships with industry, service organizations and other public agencies.

Within this task group are three subgroups: information and public affairs, enforcement, and research. The subgroup on information and public affairs is recommending new ways to get the product safety message out to the public. The subgroup on enforcement is examining ways to leverage existing Commission compliance and enforcement resources through the use of private sector personnel and facilities. The subgroup on research is developing strategies for generating private revenue to improve data collection in support of product safety research.

RESEARCH

SENATOR MIKULSKI: What resources are in the budget request for conducting research and analysis to support the recall of a product?

ANSWER: The resources for developing evidence in support of recalls or voluntary corrective action plans (CAPs) are located in the Commission's Compliance and Enforcement (CE) Program in three subprograms (Product Safety Assessment, Section 15 Activities, and Regulated Products). These resources provide for the conduct of product investigations leading to recalls/CAPs. The investigations may consist of inspections, sample collections, sample analyses, incident investigations, and technical reviews. Of the five subprograms (192 FTEs) identified in the CE Program, the three subprograms specifically designed to obtain investigational evidence are allocated 174 FTEs. Examples of projects in these subprograms are toy regulation enforcement, fireworks enforcement, section 15 investigations and product safety assessment.

SECTION 15 REPORTING

SENATOR MIKULSKI: How is the agency planning to increase manufacturer reporting of unsafe products? What percentage increase do you expect any of these actions to realize?

ANSWER: Increased reporting on the part of manufacturers, importers, distributors and retailers of unsafe products will likely result from the following combination of Congressional and Commission actions:

- amendments to the Consumer Product Safety Act which increase the maximum civil penalties the Commission may seek (for any related series of violations) from firms not reporting from $500,000 to $1.25 million,
- amendments to the Consumer Product Safety Act adding section 37 which requires manufacturers to report certain information involving lawsuits for death and grievous bodily injuries,
- amendments to section 15 of the Consumer Product Safety Act to strengthen the reporting responsibilities of industry with respect to products that fail to comply with certain voluntary standards and products that create an unreasonable risk of serious injury or death, and
- continued Commission participation at industry seminars on industry reporting obligations.

In addition, the staff continues working closely with various state and local agencies to identify product defects. Such groups include:

Paramedics
Coroners
Fire Departments
Emergency Rooms/Hospitals
Medical examiners
State Attorneys General

The Commission is unable to predict the percentage increase in reports these actions may generate. However, it is anticipated that the combination of new reporting requirements, increased civil penalties, and publicity will increase reporting.

INSPECTOR GENERAL PROGRAM

SENATOR GARN: The only programmatic increase requested in your budget is an additional $50,000 to support an additional position for your Office of Inspector General. The only justification for this increase is that it is "required by OMB for agencies the size of the Commission."

Does the Commission agree with the priority placed by OMB on augmenting the IG staffing level, given overall constraints on the agency?

ANSWER: The OMB recommendation for an additional FTE auditor position was based upon a study conducted for OMB by the Coordinating Conference of the President's Council on Integrity and Efficiency. The study examined the staffing levels of the Office of Inspector General (OIG) mandated by the 1988 Amendments to the Inspector General Act. Of the 33 designated Federal entities in the 1988 Amendments, the Consumer Product Safety Commission was among the lowest three entities in staff allocated to Inspector General (IG) audit and investigative functions. The Coordinating Conference study was a follow-on to the GAO report of April 1990 Inspectors General - Progress in Establishing OIG's at Designated Federal Entities. In this GAO report, eight of the 33 entities were found not to have sufficient resources allocated to their OIGs to fulfill the Inspectors General's statutory mission. The Consumer Product Safety Commission was one of those eight entities.

GAO concluded that lack of resources might restrict operations and independence for these eight OIG's.

The additional FTE auditor position will provide the IG with the staffing resources necessary to implement the requirements of the Inspector General Act.

SENATOR GARN: Other than "financial audits," no further discussion is provided in your justification as to the activities of the Office of Inspector General. Please explain its accomplishments over the past year and what is expected from the staff augmentation.

ANSWER: In 1990, the OIG conducted seven audits, three reviews, opened six investigative cases and concluded four investigations. The subjects covered in these reports were year-end spending, Internal Control System reviews, Automatic Data Processing (ADP), Office of Automation System (OAS) security, Management Controls and Federal Procurement Data System reporting, use of telephone credit cards, the Reception and Representation Fund and a cash Manqagement/Imprest Fund Review.

With the additional staff augmentation, the OIG will allocate resources to develop and implement a field audit plan to make certain that all functions of the Agency receive adequate audit coverage, implement section 9105 of the Chief Financial Officers Act of 1990 (P.L. 101-576) which requires financial statements of government agencies to be audited by their Inspector General, and expand the investigative function of the OIG by issuing administrative inspection reports.

SENATOR GARN: Have any corrective actions been taken from recent IG investigations and audits?

ANSWER: In 1990, 12 recommendations for corrective action were developed in conjunction with seven audit reports and three reviews. Ten of these recommendations were implemented, the remaining two are under consideration pending further management review and presentation to the Chairman.

These recommendations highlighted the need for corrective action in agency designation of specific program officials, development of a commercial activities inventory, updating and promulgating Commission directives, certification of telephone credit card bills, proper documentation on claims for reimbursement, requirements for annual audits of operating funds, security requirements of the Office Automation System, establishment of audit trails that record and document changes in the Office Automation System and restructuring requirements of the Internal Control Committee.

In addition, numerous procedural recommendations for corrective actions are made concurrent with audit initiatives and are not enumerated in final audit reports as corrective actions. These are changes made by the audited organizations as part of the audit process and not reflected in semi-annual IG reports.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This subcommittee is going to stand in recess until February 20, when we take testimony from other Federal agencies.

[Whereupon, at 2:55 p.m., Wednesday, February 6, the subcommittee was recessed, to reconvene at 1:30 p.m., Wednesday, March 13.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

WEDNESDAY, FEBRUARY 20, 1991

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:35 p.m., in room SD–138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chair) presiding.

Present: Senators Mikulski, Garn, and D'Amato.

SELECTIVE SERVICE SYSTEM

STATEMENT OF SAMUEL K. LESSEY, JR., DIRECTOR

ACCOMPANIED BY:

- **G. HUNTINGTON BANISTER, CONTROLLER**
- **CIPRIANO F. GUERRA, JR., DEPUTY DIRECTOR**

OPENING STATEMENT OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order.

The subcommittee today continues its series of hearings for fiscal year 1992. This afternoon we will hear from five of the subcommittee's smaller, but nevertheless important, independent agencies: Selective Service, the American Battle Monuments Commission, the Army Cemeteries at Arlington, the Neighborhood Reinvestment Corporation, and the National Institutes of Building Science.

We want to begin by hearing from the Director of Selective Service, Mr. Samuel Lessey. Knowing that you are soon going to be leaving Selective Service, let me be the first to extend a very sincere thank you for the job that you have done. You have administered well and been rather innovative in the work that you have done. You have done a superb job in a very important capacity, and we want to thank you for it.

Mr. LESSEY. Thank you very much, Madam Chair. I appreciate your gracious remarks.

Senator MIKULSKI. Let us make it unanimous. Let the record show the subcommittee was unanimous in its endorsement.

Last year we heard from the Selective Service in the context of very dramatic changes in Eastern Europe. This year we again review your agency under extraordinary circumstances, due to the Persian Gulf situation. We are even more aware of the important role that Selective Service plays in these times and look forward to hearing your testimony.

If you would like, in the interest of time, to provide an oral summary, that is OK. Any way you would like to handle it.

DIRECTOR'S OPENING REMARKS

Mr. LESSEY. Thank you, Madam Chair, and I am honored to be here today to testify on behalf of the Selective Service System. Yes; I would like to submit my opening statement for the record and will do so accordingly.

INTRODUCTION OF DEPUTY DIRECTOR

The first thing I would like to do is to introduce to you a new member of the Selective Service family. Since the first of the year, we have been delighted to have join us Mr. Cipriano Guerra, a banker from San Antonio, TX. And if Senator Garn were here, I would hasten to say, from a solvent bank.

Mr. Guerra has joined us as the Deputy Director. He arrived the first week in January. He brings to us a distinguished educational and business background and he served in the Navy, the Army, and the Air Force, and had 100 combat missions in Korea in F–84's and F–86's.

Cip, would you stand, please.

Mr. GUERRA. It is a pleasure to be here.

Senator MIKULSKI. How do you do, sir.

50TH ANNIVERSARY OF SELECTIVE SERVICE

Mr. LESSEY. I place before you this afternoon the new annual report. Its publication always seems to coincide with your hearing. I mention it because last September 16 was the 50th anniversary of the Selective Service System, President Roosevelt having signed the act on September 16, 1940. You can see on the front and back covers of the publication some photographs of our early history. I may be the only one in the room who remembers those days.

ROLE OF SELECTIVE SERVICE

On a more serious note, I would call your attention to my opening statement inside the cover of the annual report because this sets forth the future of the Selective Service System in the nineties. Basically, its theme pertains to the national security policy known as the reconstitution of forces which President Bush set forth in his Aspen speech last summer at the time of his meeting with Prime Minister Margaret Thatcher. Further enunciation of this policy has been put on hold because of the Persian Gulf crisis. My statement emphasizes that the Selective Service role becomes even more important as we drawdown our active duty forces. If we would ever need to reconstitute our defense structure, Selective Service would have an even more vital role than it does today.

NO PLANS FOR A DRAFT

The next point I would make is to assure the subcommittee that there are no plans for a draft. I have met with the President as recently as Friday, February 8, and he has reaffirmed that position, as he has in his public press conferences. The Selective Service System has had no contact from the Congress, the White House, or the Defense Department with any idea of reinstituting a draft. As you know, there could not be a draft without congressional legislation and approval of that legislation by the President.

I would stress, however, that I am proud to say that we are ready. It is our job to be mobilization ready. We, of course, always do some fine-tuning to the system, but basically we were as ready a year ago as we are today.

MEDIA AND PUBLIC INQUIRIES

Our principal activity in recent months has been handling media inquiries and inquiries from the public. There is, understandably, a great amount of concern throughout the Nation, among young men in particular, that there might be a draft. I have to report there has been a certain amount of skepticism of statements that there are no plans for a draft; but again, that is a very understandable concern.

That concern could be based on the question: "Well, if there are no plans for a draft, why are you so ready?" That is basically because people do not understand our role as a mobilization organization.

We have been receiving as many as 500 telephone calls a day just at our headquarters, not to mention the ones received at the field offices and the Data Management Center. I might say, amusingly, that Mr. Brodsky, our Assistant Director for Public Affairs, has had to issue headsets to the people who answer the calls in his office because they are coming in so rapidly.

We are very proud of the job that we have done in public affairs because it has enabled us in a very major way to get our registration message out, to alleviate concerns, and to get accurate information in the hands of the public.

I know you are familiar with focus groups, Madam Chair. We have just completed our focus groups in Philadelphia and in San Francisco. The summation of what we received from those groups was that young men do understand about Selective Service, but they are also very concerned that there could be a draft.

HEALTH CARE PERSONNEL DELIVERY SYSTEM

The other topic I would mention in my opening remarks is to report to you that the basic system of the health care personnel delivery system has been completed with respect to the four phases which have been outlined to you, the subcommittee, and the Congress. The computer program has been completed. It has been operationally tested and accepted. However, there are other components of the system which are in various stages of development. For example, the legislative package, operating procedures, related regulations, a claims and appeals system, the requisite forms, and a compliance program are yet to be developed. However, if the Congress and the President called upon us, we could become operational with the system in a relatively short period of time.

ALIGNMENT OF GUARD AND RESERVE FORCES

I would also report that we have completed the major portion of a corrective alignment of our Reserve forces. This is very important because it means our peacetime force now matches our mobilization plan. The realignment of our National Guard forces has been completed. The Reserve decisions have been made but implementation will be phased in over time.

BUDGET SITUATION

Regarding our budget, the one issue I should mention is the constant problem of being required to absorb pay raises, both military and civilian. As you know, in the last 4 years we have had to absorb about $2 million in pay raises. When you only have a $26 million budget, such absorptions seriously impact upon our available resources.

I think this may best be summarized on page 28 of the budget justifications or on page 5 of the annual report. The dark bars are in 1982 dollars. They show that in 1990 we were operating at the same level as we were in 1982. In current year dollars, the grey bars, it shows that we are operating well below our peak year of 1985.

That completes my opening remarks, Madam Chair. I will be happy to answer any of your questions.

[The statement follows:]

STATEMENT OF SAMUEL K. LESSEY, JR.

Madam Chair, distinguished members of the Subcommittee, it is a pleasure to be here today to testify on the Selective Service System's budget for Fiscal Years 1992 and 1993.

The Agency requests $27,480,000 for Fiscal Year 1992, an amount which permits continuation of our efforts to restore agency personnel to authorized levels, provides for the increased costs of postage and space rental, and helps offset other costs related to inflation. The Department of Defense Authorization Act of 1986 (Public Law 99-145) requires all Defense related agencies to submit two-year budget proposals. Consequently, Selective Service requests $28,316,000 for Fiscal Year 1993. This funding level will allow for anticipated inflation computed in accordance with the economic assumptions of the Office of Management and Budget. It will also partially offset expected increases in pay.

It was just a short time ago that the Berlin Wall came down and the outlook for world peace had never been brighter. But the events in the Persian Gulf showed us just how rapidly our world can change. Since August 2, 1990, there has been a great interest across our nation in the Selective Service System. The media and the public are questioning whether we could perform our mission should the Congress authorize and the President direct that a draft be reinstated.

Congress has supported this Agency and the peacetime registration of young men for more than a decade, and because of that, we are ready to conduct a democratic, fair, and equitable military draft in a crisis. In the 1990s, the Selective Service System must remain ready to mobilize. Daily, weekly, annually, we practice our complex mobilization tasks. We reassure ourselves and the nation that we can provide a fair and equitable claims adjudication process, that our employees are conversant with the standards for each classification, and that we maintain an accurate, efficient, automated nationwide data processing system to issue orders and store records. In pursuit of readiness, our Agency has established a complex yet inexpensive structure, geared toward responsiveness. We view the development and maintenance of automated systems and quality personnel training as crucial to mission accomplishment.

When a man turns 18, he visits the post office and completes a Selective Service registration form. It has become a rite of passage, an American thing to do. Peacetime registration is a major commitment which is supported and accepted by the American people. Without it, Selective Service could not meet its statutory responsibility to provide manpower to the armed forces in a manner both timely and fair.

Since its resumption in 1980, the registration program has been a major focus of attention for the Selective Service System. As of December 30, 1990, we estimate that 97 percent of eligible young men are registered. This represents nearly 15 million men, ages 18 through 25.

Principal registration sites continue to be the 34,000 post offices in communities across the nation. Young men who are out of the country when they reach registration age may register at any of our embassies or consular offices abroad. Every effort is made to keep the registration process quick and easy.

In order to ensure a continued high level of registration compliance, Selective Service maintains a registration improvement program. This program, which encompasses a variety of activities at all levels, has significantly improved registration levels.

Some registration improvement activities are nationwide in scope; others are tailored to a specific area of the country. Cooperation among National Headquarters, Region Headquarters, State Directors, and Reserve Forces Officers (RFOs) is an integral part of this program. For example, radio, television, and newspaper public service announcements are designed and produced at the National Headquarters level, then personal contact with media is conducted at the local level by RFOs. They hand-deliver publicity materials in key media markets. High schools receive an information packet each year; RFOs follow up with speeches or group presentations reinforcing the registration message.

Special projects are designed for specific areas where non-compliance is a problem, particularly in certain large urban areas. Projects such as on-the-spot registration or the inclusion of Selective Service information in school curricula are encouraged in high schools to build upon the information distributed nationally. Other projects focus on audiences outside the high schools, making use of billboards, utility bill inserts, announcements at major sporting events, information booths at state or local fairs, and informational programs aimed at various ethnic groups.

Madam Chair, no one could foresee the degree of increased visibility for the Selective Service System brought on by the Persian Gulf crisis. Once President Bush committed U.S. troops to the region in August 1990, the nation speculated about the likelihood of war and the prospect of a military draft. Public and media attention to the Selective Service System increased to a level not seen in 15 years. Thousands of calls were received over the closing months of 1990, and hundreds of newspaper, radio, and television interviews were conducted.

In FY 1991, the Agency plans to distribute public service announcement (PSA) messages on slides to 1,900 movie theaters in 71 markets across the country for use during the summer months. This is a proven method for reaching target audiences of young men. Also, one annual television and radio PSA will be produced. To reduce new production costs, these PSAs may include some older spots from past years. A high school publicity kit again will be printed and distributed.

The public awareness program has been supported over the years by principals, guidance counselors, and teachers at high schools nationwide. They continue to publicize the registration message by using the materials mailed to them annually by Selective Service.

It is the responsibility of all men, ages 18 through 25, to be registered with the Selective Service System. Each man who does not register increases the draft vulnerability of those who do register. To ensure the highest degree of fairness to all young men, Selective Service designed a computer-based compliance program which identifies nonregistrants and reminds them of their obligation. With the support of state and local governments and other federal agencies, compliance activities continue to be successful.

If more 18 year-olds can be motivated to walk into the post office and fill out the registration card without additional prompting from Selective Service, the amount of money which must be spent on follow-up compliance programs can be reduced. This is why a viable, continuing public awareness program is so important.

Although the System obtains lists of potential nonregistrants from various organizations, the primary source of information is driver's license records. Almost every state and territory makes its lists available; these represent approximately 84 percent of the records identified for processing. High school student lists and county voter records are also used to identify nonregistrants. Other sources of data used in the compliance program are the Social Security Administration, the Immigration and Naturalization Service, the Office of Personnel Management, the U.S. Postal Service, and the Departments of Defense, Health and Human Services, Transportation, and Education.

A male applicant for a Pell Grant must be registered with Selective Service. If not, he can request to be registered when he completes his application. The Department of Education provides the records of all Pell Grant applicants via data link to Selective Service. Registration records are established for those applicants who have requested that they be registered. This program, begun in February 1989, has produced approximately 404,000 registrations as of January 12, 1991.

The lists or records of potential nonregistrants are matched by computer against the Selective Service registration file. The names of those already registered are dropped from the list. The remaining names are then matched with active-duty rolls of the armed forces (including the Coast Guard) to identify those who are not required to register. Those names remaining, after this second match, are sent a compliance letter which includes a registration form. If the man fails to register or to prove that he is exempt from the registration requirement after additional mailings, his name is referred to the Department of Justice for investigation and possible prosecution for violation of the Military Selective Service Act. As of September 1990 more than three million young men have been registered via the compliance program which began in August 1982. Many nonregistrants have registered by completing and returning the registration form sent with each compliance letter.

In the years since Agency revitalization in 1980, automation has been a key contributing factor to the significant strides made in increasing employee productivity. Through the use of advanced automated data processing (ADP) technology, this Agency has attained the ability to meet DOD untrained manpower needs in an emergency, while reducing operating expenses and providing Agency officials with timely data.

Selective Service ADP facilities include the Data Management Center (DMC) and Joint Computer Center (JCC), both located in Illinois, and the Alexandria Computer Center (ACC), located in Alexandria, Virginia. The DMC provides the data entry, error correction, printing, mailing, logistics, and computer operations support required to process continuous registration. The JCC, established jointly by Selective Service and the U.S. Military Entrance Processing Command (USMEPCOM), handles the computer processing requirements of continuous registration. Programmers and analysts responsible for developing new systems and maintaining existing systems are located at the ACC, which also houses the computer used for in-house administrative applications. A telecommunications system connects all of these sites with our six regional offices and the Washington, D.C., National Headquarters.

The Alternative Service Program would affect those persons whose conscientious objection encompasses both combatant and noncombatant military training and service. The Military Selective Service Act recognizes and respects the status of those registrants who are conscientiously opposed to participation in military training and service, and provides for non-military service in the national interest. Alternative Service would allow a young man to fulfill his obligation to his country in a manner consistent with his beliefs. The program identifies eligible employers, places conscientious objectors in appropriate jobs, monitors their performance, certifies their satisfactory completion, and provides a structure of Civilian Review Boards to assess job assignments when a conscientious objector alleges that his assignment violates his beliefs.

Madam Chair, mobilization exercises since 1978 have consistently indicated that, in a major conventional war, large numbers of additional health care personnel would be required almost immediately by the armed forces. The envisioned shortage of armed forces medical personnel has been described as a potential "war-stopper" by some, including Senator John Glenn.

The Military Selective Service Act, section 10(h), was amended by section 715, Fiscal Year 1988/89 Defense Authorization Act, P.L. 100-180, approved December 4, 1987. This law requires Selective Service to develop a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the armed forces.

To meet this requirement, Selective Service has been developing a structure called the Health Care Personnel Delivery System (HCPDS). Thus far, it has been informally coordinated with staff representatives of interested Senate and House members and committees, the Assistant to the President for National Security Affairs, appropriate Federal agencies, interested health care associations, and several key military and civilian DOD officials. Media representatives have also been briefed. The proposed operational concept was published in The Federal Register (54FR33644, August 15, 1989) to ensure widespread notice and provide opportunity for public comment. Responses indicate that the post-mobilization plans, policies, and procedures developed thus far have met with substantial acceptance. Clearly, there is a need to have the envisioned standby system on the shelf as an insurance policy to enhance medical readiness for the nation's armed forces.

Functional requirements for the automated portion of the HCPDS system have been developed consistent with the operational concept and development is complete. This computer system has been validated through a series of tests and is ready if needed. Implementation, of course, would require further Congressional action and Presidential approval.

Proposed emergency legislation necessary to implement HCPDS has been submitted to DOD for coordination with the military services. Detailed policies and procedures needed to operate the basic system continue to be developed. Drafts of proposed regulations, proclamations, directives, procedural instructions for operating manuals, forms, and reports are in various stages of development. These will be appropriately coordinated and retained on the shelf, with provision for periodic testing and refinement.

The Agency's capability to support mobilization, and the effectiveness of the contemporary mobilization planning system, have been tested and evaluated during the past five years through a series of intra-Agency mobilization exercises. Through these annual exercises, the Agency's employees and volunteers are exposed to realistic performance of their required duties at actual mobilization locations. Reserve Forces Officers perform duties as Area Office Managers and State Headquarters Support Officers to activate the field structure and conduct operations. Recruiter Augmentees perform the initial mobilization duties as Area Office support staff, as well as participate in realistic role play for Local Board meetings.

The exercises planned for FY 1991 will test the readiness of the newly aligned Reserve Forces, Recruiter Augmentees, and selected Local and Appeal Board members, nationwide. Each of the Area Offices and State Headquarters will be activated for a two-day exercise of mobilization plans, including management of claims, postponements, and appeals, data entry into the Area Office Terminal System, and a nationwide test of the automated file transfer system. In a continuing effort to contain costs, the exercise will combine RFO training, Recruiter Augmentee training, Local and Appeal Board member continuation training, and mobilization location visits for the year.

Madam Chair, this concludes my statement. I thank you and Members of the Subcommittee for your support of our mission at Selective Service. I welcome any questions you may have.

PUBLIC CONCERN ABOUT A DRAFT

Senator MIKULSKI. Thank you very much, General Lessey. You are absolutely right about the public's concern about a draft, both my phones and yours have been ringing. You have indicated that you met with the President on Friday, which would be February 8. Could you share with us, if you deem appropriate, the nature of that conversation? Did he tell you of his intention? Did you put the question to him?

Could you share with us?

Mr. LESSEY. No; the only thing to report, Madam Chair, is his statement that there are no plans for a draft. Most of the rest of the conversation pertained to other matters.

Senator MIKULSKI. Yes; I understand. No; I do not want the details of that. He essentially said, I do not intend to reinstate the draft?

Mr. LESSEY. We do not need a draft and there are no plans for a draft.

Senator MIKULSKI. Thank you. I think that reassures many people, though one does not know what the future holds.

I think our readiness is an ingenious system which, No. 1, gives us a full-time volunteer Army—in fact, our whole system is based on voluntarism—a full-time volunteer Army. We have reservists and National Guardsmen who have now stepped up as the demand for military personnel has increased, and then we have a registered group of young people who, if need be, in the event of a catastrophic national emergency, could be mobilized.

I think it is an extraordinary plan, that if we do not need an emergency mobilization we are not going to call you, but if we do need you we have got your phone number to call 911. Is that not essentially the way it is organized?

Mr. LESSEY. Exactly, Madam Chair. I see what has happened with respect to the Persian Gulf crisis as a textbook example of the total force policy at work. We are the third force, if you will, the insurance policy. I think we should all thank the Lord that in this particular situation it has not been necessary to call upon us.

Senator MIKULSKI. Well, General, Senator Garn—first of all, the Chair wants to note that Senator Garn is here.

Senator, I am going to turn to you. I know that you are working with Senator Sarbanes on looming important trade legislation on the floor. Do you have an opening statement, sir, and would you like, in the limited time you have, to pursue your questions? I can pick up on mine.

REMARKS OF SENATOR GARN

Senator GARN. Well, thank you, Madam Chair.

I do apologize for dropping in and running out. I often run into a conflict between my responsibilities on the subcommittee and my responsibilities on the Banking Committee, and that is occurring today. The Export Administration Act is on the floor. Senator Sarbanes and I are managing it. We are trying to come to a time agreement so we can finish it. It was passed last year, but pocket vetoed by the President. So we are trying to fashion something that we can get by.

So I do apologize for having to leave, and I do not have an opening statement other than to welcome our witnesses. I would just tell one quick story, though, my only personal experience with the Selective Service System. Back in 1957, I got a draft notice and I ignored it.

I got a second followup, and I ignored that, and I continued to ignore it until my mother wrote me a letter and said the FBI had come by our house looking for me.

But I think you should know the reason I had ignored it. I was a U.S. Navy pilot serving in Iwakuni, Japan, and had gone through Navy flight training, was a lieutenant junior grade. So I did not feel it was necessary to be drafted and take me away from that duty over there.

So we were finally able to keep Local Board 21 from drafting me out of the Navy into a buck private in the Army. But other than that, I have had a good relationship with Selective Service over the years.

Thank you, Madam Chair.

Mr. LESSEY. May I say, Senator Garn, that before you arrived I introduced Mr. Cip Guerra from San Antonio, TX, who has just joined Selective Service as the Deputy Director. I mentioned this because he is a banker from Texas—Mr. Guerra——

[Mr. Guerra stands.]

Mr. LESSEY [continuing]. And it is a solvent bank.

Senator GARN. Unusual. [Laughter.]

Thank you.

Thank you, Madam Chair.

MOBILIZATION READINESS

Senator MIKULSKI. General Lessey, just a couple of quick questions. On mobilization readiness, which is your principal mission, I am concerned that there is a reduction in 1992 of about $50,000, while the Service's administrative expenses are scheduled to go up and new positions are being added. Are we skimping on mobilization readiness, and how would those 10 new positions be used?

Mr. LESSEY. I think the reason for the first decline in the account is simply that we have not completed all of our recruiting in terms of the Reserve Force officer structure.

Senator MIKULSKI. Did you want to add something?

Mr. BANISTER. Yes, Madam Chair. The major element of expense in the mobilization readiness program is the pay and allowances of our Reserve Forces. As the general mentioned, we are in the process of staffing up our Reserve Forces in accordance with the realignment referred to earlier. Our revised force structure generally provides for lower graded officers which would tend to lower the cost of that program in 1992 without diminishing its effectiveness.

ADMINISTRATIVE EXPENSES

Regarding the increase in administrative expenses, we had planned to restore civilian personnel to the authorized level of 277 FTE's, as well as meet the increased cost of space rental and other inflationary increases. However, our estimates do not provide for the proposed 1992 pay raise. The Office of Management and Budget did not specify, as they apparently had with other Federal agencies, that Selective Service include any of the 1992 pay raise in its estimates.

We have subsequently learned that included in the President's budget accounts are moneys for that pay raise. Consequently, because we now realize that we will have to absorb the 1992 pay raise, we will only be able to fund about 268 full-time equivalent employees within the "Administrative expense" account, not the 277 shown in the budget justification.

FISCAL YEAR 1992 PAY RAISE

Senator MIKULSKI. General or Mr. Banister, what do you anticipate the pay raise costing and what percentage are we anticipating? A 4 percent, 5 percent?

Mr. BANISTER. The anticipated raise for 1992 is 4.2 percent. We estimate that the combined total of the civilian and military pay raises will cost us about $566,000. That is the amount we will have to absorb next year.

Senator MIKULSKI. So out of a budget that is very modest and very frugal, this would be a big hit, to use a colloquial term?

Mr. LESSEY. Yes, ma'am; yes, indeed.

HEALTH CARE PERSONNEL DELIVERY SYSTEM

Senator MIKULSKI. So we should anticipate these kinds of problems.

General, I would like to ask a question now about the health care personnel delivery system. Could you tell us where you are in completing the development of this system? This subcommittee has the responsibility for overseeing VA, and VA is the backup to the military hospitals for casualty preparedness.

A good bit of our medical personnel have been called up for Desert Storm. This is particularly true in the the VA, where many of the people who were doctors, nurses, and allied health personnel were either reservists or National Guard people, and they had that sense of comradeship, serving the country, so they were in this other area.

They have now been called up to Desert Storm. What this now means is, as we look at casualty preparedness, we are running short. I do not want to say there is a shortage, but, particularly if casualty needs are significant, with the VA hospitals providing backup to military hospitals, we could run into a real health care personnel crunch.

Therefore, my question is, No. 1, where are you in completing the system that we have discussed; has anyone discussed the possibility of using the system in any capacity to meet Desert Storm needs, primarily for backup, say for casualty preparedness?

Mr. LESSEY. Let me try to answer that, Madam Chair.

Senator MIKULSKI. Did you follow my question?

Mr. LESSEY. Yes; philosophically, your question is completely on target. This is the very reason that congressional leaders such as yourself, Senator Glenn, Congressman Montgomery, and others were interested in having us develop this emergency health care personnel delivery system.

It is designed to meet DOD's health care personnel requirements on a postmobilization emergency basis, after the DOD has provided for its main medical care with active duty and Guard and Reserve personnel. DOD estimates that approximately 72,000 health care personnel would be required in the event of full mobilization. However, those numbers are not inherent to the system because we could meet whatever DOD's requirements are at the time. Nevertheless, that is the number we use for planning purposes.

We, of course, have looked very closely at the impact the health care personnel delivery system could have on the civilian medical community, including the VA and other health care requirements. The good news is that we can meet those DOD emergency requirements with only about 2 percent of the health care personnel in the country.

The bad news is there are certain categories of doctors in which from 8 to 20 percent of the practicing physicians might be required. Examples include oral surgeons, thoracic surgeons, anesthesiologists, orthopedic surgeons, and prosthodontists.

Of course, I can not specifically address particular situations in any given VA hospital. However, I will say, in keeping with our conversations, this concept has been well coordinated, not only with the medical associations, but throughout the Government.

In other words, we have had contact with the Veterans Administration, FEMA, the Department of Defense, and HHS.

Senator MIKULSKI. General, is Selective Service part of the working group that we have been briefed on?

Mr. LESSEY. Yes; we are.

Senator MIKULSKI. So you are actually there.

Mr. LESSEY. With DOD, there is a working group. However, with the others, I do not know that I would define it as a working group as much as just a coordination.

STATUS OF HEALTH CARE PERSONNEL DELIVERY SYSTEM

Senator **MIKULSKI**. I see. But you feel, it is your judgment, that your four-phase program for registration and classification is complete or up to date?

Mr. **LESSEY**. Would you repeat that, please, Madam Chair?

FOUR-PHASE PROGRAM

Senator **MIKULSKI**. Well, in 1988 they started a four-phase program to develop a system of registration and classification of health care personnel, that we would know in the event of either a civilian national emergency—a nuclear powerplant, an ecodisaster—as well as a military emergency, which we could be facing in the event of a ground war.

Mr. **LESSEY**. The four phases of the basic system are complete. The computer program has been completed. It has been operationally tested and accepted. However, as I mentioned earlier, there are other components of the system yet to be developed. We do not have a compliance program. Some regulations must be written and we are negotiating with DOD with respect to the emergency legislation package. Of course, it should be remembered that this is a generic system which we were tasked to develop. We were specifically told by the House not to become involved in names and addresses. If we were called upon to activate the system it would have to start with a mass registration.

Senator **MIKULSKI**. But if the President or his designee turned to you and said, "My God, it has begun and we need all the help we can get, particularly now back at our military hospitals, our civilian hospitals, we need more people and we need them as quickly as possible," what would you tell him that you had ready?

Mr. **LESSEY**. First of all, nothing could happen without legislation. Congress would have to pass a law and the President would have to sign it.

Senator **MIKULSKI**. But what would you have now to tell him as part of what you have established? What have you established?

POSTMOBILIZATION EMERGENCY ASSET

Mr. **LESSEY**. Well, we have established an asset for the United States which could be used in a postmobilization emergency.

Senator **MIKULSKI**. But what is the nature of the asset?

Mr. **LESSEY**. The asset is the health care personnel delivery system.

Senator **MIKULSKI**. And what is it? What are the components of it? What is it?

Mr. **LESSEY**. The most important part is the computer program, which would permit us to operate in the same way that we would operate a normal draft.

REGISTRATION OF HEALTH CARE PERSONNEL

Senator **MIKULSKI**. What would it tell us? Categories of people? If you do not have names and addresses, what do you have?

Mr. LESSEY. We would have a system that would enable us to call up medical personnel and provide for their claims. I'd like to think of it as a parallel to the regular draft.

Senator MIKULSKI. But General, the regular draft has names: Bernie Schwartz, age 20, 222 Bank Street, Baltimore, MD.

Mr. LESSEY. Yes; but we would have those names and addresses subsequent to a mass registration, which I believe we could probably do in about a week or so, once we got started.

Senator MIKULSKI. So you have the framework to do the registration if we had to pass emergency legislation.

Mr. LESSEY. Yes.

Senator MIKULSKI. But just like the establishment of a draft, it would take a special act of Congress to do this.

Mr. LESSEY. Absolutely.

The registration could take place within a week or so. My estimate is that it would take about 42 days before we could provide the first inductee.

Senator MIKULSKI. That is very helpful.

PROVISION OF NURSES AND OTHER SPECIALISTS

Mr. LESSEY. I should mention here, by the way, that this health care plan is not just for doctors.

Senator MIKULSKI. Nurses as well?

Mr. LESSEY. There are 62 different specialties that the Defense Department has identified. Those are set forth in the concept paper which we supplied last year.

Senator MIKULSKI. But it is doctors and it is nurses.

Mr. LESSEY. Yes.

Senator MIKULSKI. And is it not some others?

Mr. LESSEY. Yes; it also includes other categories of health care personnel such as technicians.

Senator MIKULSKI. You know, General, as part of our conversation with the DOD, the military hospital personnel, and VA, one of their great concerns is the shortage of nurses, the availability of nursing personnel and technicians. I am glad that you have the asset developed in that area.

Well, let us hope we do not need it.

Mr. LESSEY. Absolutely.

Senator MIKULSKI. I know you feel that strongly. I think you are never a former member of the military. I mean, you are always a member of the military, and I know your commitment to patriotism and I know how you served this country in military life and civilian life.

I do not have any other questions to ask you, because over the last couple of years I felt I got to know you very well, I felt I got to know your agency very well, and I think we have gotten to know the needs of the agency very well. I would hope that all of our agencies would be run with the sense of mission and flair for frugality that you have brought to it.

So again, I am not going to ask any more questions and I would like to give you a salute.

Mr. LESSEY. Thank you very much, Madam Chair.

Senator MIKULSKI. So good luck and Godspeed.

Mr. LESSEY. Thank you very much, Madam Chair.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

PUBLIC AWARENESS

Question. You cite compliance with the registration statute at 99.4 percent. How do you compare the effectiveness of public awareness in contrast to the labor intensive cross-checking of lists to achieve compliance?

Answer. These two methods of boosting compliance are not directly comparable. Public awareness programs are designed to stimulate general awareness of the registration requirement to broad audiences. They are designed to reach men and their influencers, including parents, teachers, coaches, counselors, and others with simple reminder messages. As a contrast, mailings to individuals identified by computer tape matches are targeted directly to men turning 18 and suspected non-registrants. They are individualized by name and address and request a specific action be taken by the addressee. These computer tape matches are not "labor intensive" because most of the lists obtained are automated. Both these programs work in harmony. Our limited focus group research with small samples of young men indicates that public awareness programs have made America's men knowledgeable about the registration requirement and have caused most to register on or near their 18th birthday. However, while those who registered late also had seen public service messages, they procrastinated. They cited receipt of compliance letters as the reason they finally registered.

Question. Do you plan to increase public awareness activities?

Answer. Our programmed budget levels do not allow for any significant increase in resources for public awareness. For the past two years, radio, television, and high school publicity campaigns have been developed, produced, and distributed at reduced levels, when compared to earlier years. However, this year, a modest increase in funding has been allocated for public awareness in order to distribute public service announcement messages to theaters around the country. It should be noted that the recent events in the Persian Gulf have more than compensated for the lack of public service messages about registration. Public and media interest in the prospects for a draft increased awareness of the Agency and the registration requirement to a level not seen in many years.

ACQUISITION OF COMPLIANCE LISTS

Question. Does the Selective Service meet with any resistance in its acquisition of such lists (e.g., driver's license registration, voter lists)? What are the reasons for this resistance, and what is being done by Selective Service to counter it?

Answer. The Agency has not been able to acquire drivers' license lists from Hawaii because of Privacy Act considerations and has met with resistance [illegible] continuing to acquire the driver's license registration lists from Massachusetts. Massachusetts now denies outside agencies, other than law enforcement agencies, access to this data. A third party mailer program has been incorporated in Hawaii. In addition, based on applications of Privacy Acts, there is difficulty in most communities in obtaining high school dropout lists.

HEALTH CARE PERSONNEL DELIVERY SYSTEM

Question. Your Health Care Personnel Delivery System (HCPDS) was designed primarily to address military needs. Do you envision the system being responsive in a civilian emergency? What have you done, and what are you planning to do in the future to make the system more responsive and valuable to the civilian sector?

Answer. The National Disaster Medical System (NDMS) under the joint leadership of the Department of Health and Human Services, the Federal Emergency Management Agency, the Department of Defense, and the Department of Veterans Affairs, is the recognized vehicle for providing Federal medical assistance to State and local authorities in major catastrophes.

The response time would be a major problem if a post-disaster involuntary medical registration and draft were used to respond to the most likely catastrophe scenarios, such as a massive earthquake. The NDMS advises that medical assistance teams responding to major and sudden catastrophes must arrive within 8-12 hours of the disaster to be of any practical aid. NDMS already has volunteers, signed up and credentialed in advance, on call for immediate response to such events. Nevertheless, we will be alert to ways in which we can support NDMS and continue to assess our potential responsiveness and value to the civilian sector in general.

QUESTIONS SUBMITTED BY SENATOR FOWLER

REINSTATEMENT OF THE DRAFT

Question. Given the present status of the volunteer armed services and reserves, at what level of casualties or troop commitment in a trouble spot in the world would it become necessary to reintroduce the draft? How far away are we right now from needing a draft?

Answer. We are not aware of any predetermined troop commitment number or timetable, or casualty count that would trigger a request for a draft to be reinstated. Only Congress can reinstate a draft by passing appropriate legislation. If in the judgment of Congress an environment exists requiring a draft, Selective Service stands ready to perform its mission. At the moment, there is no indication a draft is being considered.

Question. Sketch a likely scenario describing a military intervention which would lead to a draft.

Answer. We cannot speculate about the kind of military scenario which might lead to a draft, except to say that the crisis would have to be of sufficient magnitude that the manpower available in the active and reserve forces would not or might not be sufficient for defense purposes.

Question. What legal, political, and administrative procedures would have to be taken to begin processing draftees?

Answer. A draft could not be reinstated unless Congress passed legislation to reinstate the President's induction authority and the President implemented a draft. Technically, paragraph 17c of the Military Selective Service Act would need to be amended. We cannot address the political aspects of a draft. Procedurally, the rules and regulations governing how a draft would be conducted exist. They are published in the Code of Federal Regulations and the various implementation manuals of the Selective Service System.

INVOLVEMENT OF OTHER AGENCIES IN A DRAFT

Question. Would any other agency besides Selective Service be involved?

Answer. After receiving the legal authority to conduct a draft, Selective Service would coordinate closely with the Department of Defense, especially the Military Entrance Processing Command. There would also be routine coordination with Department of Labor (job reinstatement rights for draftees, eligibility for job training), Department of Justice (prosecution of draft law violators), Department of Education (conditioning student loans and grants to the registration requirement), and Office of Personnel Management (eligibility of registrants for Federal jobs).

COST OF A DRAFT

Question. How much would it cost to begin a draft? Identify the specific costs. Added personnel? How many? New space? New equipment?

Answer. For total cost estimate, under a "worst-case" scenario, the add-on increment for the initial 12-month period operating cost is currently estimated at approximately $450 million, including $190 million in registrant and alternative service worker travel costs. Additional personnel compensation and benefits will amount to approximately $150 million. About 4,800 civilian employees would be hired and 745 military reservists would be called to active duty. Costs for additional space rental is estimated at $20 million. This will provide space for 446 Area Offices, 48 Alternative Service Offices, 96 District Appeal Board Support Offices, 56 State Headquarters, and expanded offices for Region and National Headquarters. Equipment costs are estimated at $10 million. The figures herein are gross estimates only.

LEGAL COSTS RELATED TO A DRAFT

Question. Who would handle legal costs if there was a mass refusal to comply with draft notices?

Answer. As with any violation of Federal law, the Department of Justice would handle cases of non-compliance.

QUESTIONS SUBMITTED BY SENATOR KERREY

SSS ROLE IN PERSIAN GULF CRISIS

Question. Assuming that we continue to rely on the volunteer Army, does Selective Service have any role related to the Persian Gulf?

Answer. No, except as a third line of defense. Selective Service continues to fulfill its primary mission of being ready to provide the Department of Defense with manpower in the quantity and within the time required if the Congress passes and the President signs appropriate legislation to begin inductions.

MOBILIZATION PREPAREDNESS

Question. You indicate in your testimony that you practice "daily, weekly, annually" your complex mobilization tasks. How do you practice these tasks "daily, weekly, annually"?

Answer. Key players in mobilizing the field structure of Selective Service are our Reserve Forces Officers (745), National Guard Recruiter Augmentees (1,500), and citizen volunteer Local Board Members (10,430). On a daily basis, our National Headquarters staff develops, monitors, and evaluates mobilization training and exercise programs to ensure these key players and supporting elements remain mobilization ready.

Across the country, our Reserve Forces Officers (RFOs) train one weekend per month using a series of training packages designed to cover the full spectrum of mobilizing the field elements of the Agency. This training guidance includes procedures for acquiring space, hiring employees, processing claims for deferment, exemption, and postponement, establishing an Alternative Service Program, providing support to board members, et cetera.

On an annual basis, board members are trained by our RFOs on their duties as board members. The highlight of this training is a role-playing board meeting. Yearly exercises and training programs are conducted with RFOs and recruiter augmentees. This year RFOs and augmentees will conduct a mobilization exercise (MOBEX 91) at the actual predesignated mobilization sites. Selected local boards will also participate. On the weekend of April 5th we will conduct the "Super Saturday" portion of MOBEX 91 where some 80 percent of our 446 area offices will be exercised. The highlight of this exercise will be overnight retrieval of automated information by our Joint Computer Center from over 300 locations throughout the nation.

At the National level, we are routinely involved in a variety of interagency exercises which test areas such as the lottery, draft notice mailgrams, and the Registrant Information Management System. Also, exercises are periodically conducted with other governmental departments and elements such as the Department of Defense and MEPCOM to test areas such as controlling the proper flow and delivery capabilities of inductees.

NONREGISTRANTS

Question. You indicate that 97 percent of eligible young men are registered. Who tends to be in the 3 percent category? Is their failure to register likely to be intentional or through ignorance?

Answer. Experience shows us that the majority of nonregistrants are located in large urban areas of this country. Many of these nonregistrants may include aliens and high school dropouts, and their failure to register may not be intentional; they may be unaware of the requirement to register. A number of our registration improvement and public awareness efforts, therefore, are targeted to reach these nonregistrants.

AVAILABILITY OF DRIVERS' LICENSE RECORDS

Question. Which states still do not make driver's license records available to you?

Answer. The states of Massachusetts and Hawaii are not participating. However, a third-party mailer program has been instrumental in assisting Hawaii's registration efforts.

FAILURE TO REGISTER ACTIONS

Question. How many actions do you currently have pending for failure to register? How many have you had in the past year?

Answer. Prosecutions of alleged violations (including failure to register) of the Military Selective Service Act, 50 U.S.C. App. 451 et seq., are the responsibility of the United States Department of Justice rather than the Selective Service System.

SSS ORGANIZATIONAL STRUCTURE IN NEBRASKA

Question. What is the structure of your organization in Nebraska?

Answer. Nebraska has a part-time Federal Civil Service State Director who reports to the Director of Region VI, headquartered in Aurora, Colorado. Nebraska has two detachments of Reserve Forces Officers: a National Guard detachment of five officers and a Reserve detachment of four officers. Both detachments are located in Lincoln and perform their drill activities there. For mobilization purposes, Nebraska has six Area Offices, is authorized 10 Recruiter Augmentees, 24 Local Boards of five members each, one District Appeal Board of five members, and one Alternative Service Office with one Civilian Review Board of five members.

SSS TRAINING IN NEBRASKA

Question. What "practices" have you conducted there?

Answer. Mobilization exercises were conducted in Nebraska in FYs 1986 through 1989. FY 1990 was a training year for our Reserve Forces Officers, Recruiter Augmentees, and Board members. For instance, Reserve Forces Officers conducted four-hour continuation training sessions with Local Board members in each area office. The District Appeal Board members also received four hours of continuation training. Several newly appointed local board members received twelve hours of initial board member training in Nebraska in 1990. The initial training for newly appointed board members was also provided by the Reserve Force Officers utilizing standard Agency training materials. Recruiter Augmentees received their training as a group. This group training was conducted by one of the Nebraska Reserve Forces Officers. In FY 1991, all six of the Nebraska Area Offices are scheduled to participate in the Agency's mobilization exercise on April 5, 1991.

REGISTRATION COMPLIANCE IN NEBRASKA

Question. What is the registration compliance in the State?

Answer. As of December 31, 1990, the estimated registration compliance rate in the State of Nebraska for 18 year old men who were born in 1972 was 98.2 percent, as compared to the national-level compliance rate of 83.4 percent for the same year of birth group. The estimated registration compliance rate for 19 year old men born in the State of Nebraska who were born in 1971 was 96.3 percent, as compared to the national-level compliance rate of 93.7 percent for the same year of birth group. Selective Service can only estimate compliance rates at the State level and develop these estimates only for 18 and 19 year olds because these two year groups are the primary focus of our registration improvement efforts.

PUBLIC AWARENESS ACTIVITIES IN NEBRASKA

Question. What on-going educational and public service activities do you have in the State?

Answer. Nebraska has very thorough Public Awareness and Registration Improvement Programs which are carried out by the State Director and the Reserve Force Officers. At the national level, we have several programs which are conducted in all states. A television public service announcement (PSA) is distributed yearly to every TV station. Similarly, all radio stations are sent a tape of radio PSAs. In 1990, the Agency also sent slides and film to movie theaters in every state. Additionally, all high schools received a package containing posters, fact sheets, public address announcements, and public service messages for reprinting in school newspapers. At the local level, the major activities for FY 1991 will concentrate on the Reserve Force Officers making personal visits to the largest high schools in the state to deliver a videotape on Selective Service, contacting guidance counselors, coaches, and/or athletic directors, and reinforcing the use of the materials provided to the high schools. Other activities include placing reminders about the registration requirement with YMCAs in Lincoln and Omaha, at various locations at the University of Nebraska and Nebraska Wesleyan, and other large facilities frequented by youth, as well as at community facilities such as the Malone Center, Pershing Auditorium, Omaha Civic Center, Rosenblatt Stadium, the Devaney Center, Seacrest Field, and Wright Field. The State Director and Reserve Officers will contact various outlets in the community such as grocery stores, newspaper carrier associations, major communications facilities, utilities, community centers and statewide publications to place reminders about the registration requirement. Presentations are made to youth groups such as 4-H and extracurricular secondary school clubs. Individuals that influence young men, such as teachers, probation and parole officers, and community leaders are briefed on registration procedures. Nebraska has one of the most far-reaching and intensive programs of this kind in the nation.

QUESTIONS SUBMITTED BY SENATOR GARN

THE GULF WAR AND REGISTRATIONS

Question. You have been getting plenty of attention in the media since the Gulf War erupted. Have you experienced a corresponding increase in the rate of registrations?

Answer. During the time period of Desert Shield, our registration receipts increased by approximately 25 percent as compared receipts of a year ago. Since the war began in January, registrations increased by 58 percent.

POST OFFICE AND REMINDER CARD REGISTRATIONS

Question. The committee staff discovered that for FY 1990, post office registrations accounted for one-third of your compliance while the remainder came from mailing reminder cards and other compliance activities. What are you doing to increase the proportion of the lower-cost on-time registrants vs. the number of registrants obtained through your follow-up activities?

Answer. We continue to work for public awareness through the use of our public service announcements, high school publicity kits, newspaper messages, movie theater slides and through our Reserve Forces Officers, in an effort to hopefully minimize the number of persons added to our follow-up compliance program.

IMPACT OF POSTAL RATE INCREASE

Question. Since most of your follow up activity involves mailing compliance notices, what impact will the postal rate increase have on your system?

Answer. It is estimated that the postal rate increase will result in an additional $10,000 in postage this year to mail registration compliance letters. Overall, this year's postal rate increase is expected to cost us an additional $120,000 in FY 1992.

COMPLIANCE RATE FOR DRAFT ELIGIBLES

Question. While we understand that the overall compliance rate for the draft eligible population is approximately 99.4 percent, we understand that the rate of compliance for 18 year olds last year was 83.2 percent. What is the reason for the relatively low compliance rate for those in their first year of draft eligibility?

Answer. We do not know with any certainty what the causes are for the lower registration compliance rate for 18 and 19 year olds. We conjecture that low registration rates in these two age groups are due to the young men concentrating on entrance into college or the workforce and on lack of awareness on the part of high school dropouts. However, the compliance rate increases as they realize they must be registered to be eligible for education and/or work related financial benefits. By the time men reach age 20 and enter their first year of draft eligibility, the registration compliance rate increases to over 95 percent.

HEALTH CARE PERSONNEL DELIVERY SYSTEM

Question. P.L. 100-180 requires the Selective Service System to develop a system for the delivery of health care personnel to the Armed Services in a national emergency. Selective Service developed a four phase (phase IV is testing) implementation program for the Health Care Personnel Delivery System to be completed in January 1991. Was the system completed on schedule?

Answer. Yes, that portion of the system scheduled to be completed by early 1991 has been completed. As noted in the *Annual Report to the Congress of the United States for the period October 1, 1989 through September 30, 1990*, that portion was the ADP system for the basic one-step examination and induction process. That ADP system now has been completed and is available if needed. However, not all supporting policies and procedures associated with this basic one-step system may be ready until the end of 1991. To be fully confident of Selective Service readiness to execute this one-step, post-mobilization system, we intend to conduct a mobilization exercise on it in the third quarter of FY 1992. As outlined in the *Annual Report*, additional time will be required to establish the other Health Care Personnel Delivery System (HCPDS) components, including a two-step examination and induction system, a compliance system, a system for processing overseas registrants, and an alternative service system. All of these HCPDS follow-on components will be needed to provide for a graduated mobilization response capability under different emergency scenarios.

Question. While the system is in place to register, select, process or call for the induction of health care professionals, is it correct that you have no authority to collect the information necessary to carry out this mission?

Answer. Yes, although the basic one-step ADP system is in place and the entire one-step system will be ready to go when some associated procedural guidance and prototype forms for field personnel are finalized later in 1991, it is correct that Selective Service has no authority to register health care personnel.

Implementation of any HCPDS provisions, including registration, would require Congressional legislation and Presidential approval. Senate Report 100-57, on the National Defense Authorization Act for Fiscal Years 1988 and 1989, page 149, stated in connection with providing authority to the Selective Service System to build HCPDS, "This provision does not grant authority to Selective Service to register or to induct medical personnel."

Question. Do you think we could implement the Health Care Personnel Delivery System on a voluntary basis? That is, asking health care professionals to register on a voluntary basis so in the event of a national emergency we can call on these people - sort of a health care professional reserve force.

Answer. More appropriate mechanisms appear to exist already for those wanting to volunteer to serve in a health care professional reserve force. As you know, the Department of Defense has programs to sign up health care personnel wanting to volunteer to serve as military reservists and be on call to render medical services in an active duty military capacity when needed. Health care personnel wanting to volunteer to be on call to render medical services in a civilian capacity when needed, such as in connection with a national catastrophe, may sign up to serve in the National Disaster Medical System (NDMS). NDMS was specifically chartered to provide Federal medical assistance to State authorities in catastrophes.

REFERRALS TO THE DEPARTMENT OF JUSTICE

Question. After reviewing your field operations, our staff discovered that since 1982, 620 individuals have refused to register. What action have you requested from the Justice Department to address the refusal of these individuals to register? What has been the response of the Justice Department?

Answer. The Selective Service System refers the names of all young men, who are possible nonregistrants, to the Department of Justice for possible investigation and prosecution. This quarterly referral includes the names of individuals who have refused to register as well as those who have been identified as nonregistrants. We cannot specifically identify those individuals refusing to register on the quarterly referral of possible nonregistrants. In January 1991, a meeting was held between the Department of Justice and Selective Service System officials to discuss this issue and to reconfirm a mutual objective of 100 percent compliance in order to assure fairness and equity for all who have registered.

ACCESS TO INTERNAL REVENUE SERVICE DATA

Question. It has been suggested that Selective Service could realize some savings in mailing costs if Selective Service were able to access IRS files. To what extent has Selective Service explored this arrangement with IRS?

Answer. If we were able to obtain the name and current address for 18 through 25 year old males from the IRS, we believe we could reduce, if not eliminate, much of our cost for DMV and such services as voters lists. Additionally, we would save money on mailing costs because the IRS addresses could be more current than those we receive from the various other sources. Improved accuracy of records also equates to enhanced fairness and equity of the System.

We met with the Office of Disclosure and Tax Processing Division, Internal Revenue Service (IRS), Washington, D.C., on December 5, 1988, in an effort to seek the names and addresses of potential registrants. IRS indicated that several statutes exist which prohibited them from providing SSS with data directly. If we were able to receive access to IRS data, some savings could accrue; however, it is not possible at this time to determine the exact amount.

IMPACT OF SOLOMON AND THURMOND TYPE LEGISLATION

Question. How many states have linked educational benefits state employment qualifications with Selective Service registration? As additional states adopt "Solomon-type" and "Thurmond-type" legislation, what steps are you taking to ensure that your operators can meet the additional workload associated with the increase in telephone inquiries? I understand that last year's workload increased by 18 percent as more states required compliance. (Last year 17 states adopted such legislation.)

Answer. To date, seventeen states have adopted "Solomon or Thurmond" type legislation. The initiative to adopt Solomon or Thurmond type legislation is provided by the individual states, and for that reason we can not project the number of states which might adopt similar legislation this year. The Selective Service System established toll-free telephone service in 1984 to provide easy access to information on registrants. At that time it was envisioned that the cost of this service, to be used by individuals and organizations with immediate need for information, would represent a relatively small portion of our available resources. However, over the years the number of calls have increased dramatically with an equally dramatic increase in costs. We found that the toll-free number was often used when less costly methods could provide the necessary information in a timely manner. The toll free telephone service was terminated beginning October 1, 1990 for budgetary reasons, and the volume of calls have leveled off despite the recent interest in our Agency. However, should the number of inquiries increase, we will continue to be responsive through the efficient use of all resources.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

ALTERNATIVE SERVICE PROGRAM

Question. Guidelines for the Alternative Service Program are expected later this year. What opportunities for public review will be available?

Answer. Selective Service continues to enhance the Alternative Service Program through updating its literature, data program system [Alternative Service Program System (ASPS)], and ASPS forms.

The Alternative Service Workers Handbook and the Alternative Service Employers' Handbook incorporate Agency guidelines for the worker and employer. These publications are kept current and reflect the information in the current regulations and Agency policy, and are shelved until there is a mobilization. The Alternative Service Program System (ASPS), which is the internal data system used by Selective Service personnel to track the alternative service worker through his two years of civilian service, is also kept current and reflects the information contained in Selective Service Regulations and Agency policy. Alternative Service forms are current and "on the shelf." We do not plan to make these forms available to the public prior to the resumption of induction notices. These forms will be available to alternative service workers at area offices should a draft be reinstituted and local boards activated.

AVAILABILITY OF POSTPONEMENT AND RECLASSIFICATION INFORMATION

Question. What provisions are being made to make information concerning reclassification, and in particular Form 9 (the postponement and reclassification form) more accessible to registrants? Should Form 9 be made available at United States Post Offices, along with the registration form?

Answer. The "Information for Registrants" booklet, which provides detailed information on various classifications which would be available under a resumption of inductions, is available from the Consumer Information Center in Pueblo, Colorado.

The SSS Form 9 (Claim for Postponement or Reclassification) is not available at this time because the classification process is not in effect. Section 1633.3 of Selective Service Regulations specifies that no information concerning a registrant's potential classification will be retained by Selective Service and no file relating to a registrant's possible classification status will be established prior to his being issued an induction order. Should the Form 9 be made available along with the registration form, we would be misleading registrants into thinking that they can file claims for reclassification now. Any Form 9 received by Selective Service would have to be returned to the registrant with a note of explanation.

The SSS Form 9 will be made available at Post Offices upon the resumption of inductions. It will also be available from any Selective Service office.

Question. In testimony before the House Appropriations Subcommittee on VA-HUD and Independent Agencies, Selective Service Director Lessey said that in the event of a draft, Form 9 (the postponement and reclassification form) would be made available along with the induction notice. Is this correct?

Answer. The induction notice would advise of the immediate availability of the form. We do not plan to make the Form 9 available to the public prior to the resumption of inductions. Present plans call for the form to be stocked at post offices and all Selective Service offices immediately upon the institution of a draft; by the time a registrant received an induction notice, the form would be available in his area.

AVAILABILITY OF REGISTRATION INFORMATION

Question. What is being done to see that the registrant has basic information on the registration process available at the Post Office, so that the registrant can fully inform himself of the significance of registering?

Answer. Selective Service provides basic information to the registrant at all U.S. Post Offices on the registration process by way of three sources. First, the primary registration document within Selective Service is the Registration Form, SSS Form 1. The reverse side of the registration form provides the registrant with an address to write for additional information concerning his registration status, describes the penalties for not registering, and provides Privacy Act information. Second, an information booklet called "Selective Service and You" is available to registrants at the post offices. It explains the entire registration process now in effect and provides a brief description of the procedures for filing classification claims and appeals. This booklet includes a useful "Who Must Register" chart which lists all persons who are required to register. Third, Selective Service provides a poster for display at U.S. Post Offices. This poster describes who must register, when they register, and where they register. It also provides an address to write for additional information on their registration status as well as where to obtain a copy of the "Information for Registrants" booklet. This booklet furnishes general information to the registrant about his rights, obligations, and the induction, claims, and appeals processes.

Question. Form 2 (the Change of Information Form) is reportedly frequently unavailable in Post Offices. What is being done to remedy this?

Answer. During July and September 1990, the Selective Service System (SSS) printed over 200,000 copies of the "Change of Information Form," SSS Form 2. SSS shipped these forms to the United States Postal Service (USPS) Eastern and Western Material Distribution Centers located in Somerville, New Jersey, and Topeka, Kansas. These forms are available to each of the 35,000 U.S. Post Offices through their requisition process. As part of our FY 1991 printing production schedule, an additional 200,000 copies of the SSS Form 2 have been requisitioned for distribution to the USPS Material

Distribution Centers as soon as the printing process is completed. USPS allows SSS to place informational items in their bulletins to postal employees. The Form 2, among other issues, will be discussed with USPS.

DEFINITION OF CONSCIENTIOUS OBJECTION

Question. What is being done to solve the conflict between statutory law and present SSS practice regarding the definition of conscientious objection, as presented on SSS forms and draft board training materials?

Although the Military Selective Service Act specifies that local boards find "some basis in fact" to deny a conscientious objector claim, SSS materials apply what amounts to a psychological test. This "no rest or peace" standard, which appears in the Selective Service training manual for local board members, in the regulations, and on Form 22 (SSS' conscientious objector claim form), does not conform to statutory law. Two courts have ruled that this standard is invalid. Why does the SSS continue to use this illegal definition?

The "no rest or peace" language on Form 22 replaces the statutory language which appeared on the previous conscientious objector form. (Its use on Form 22 effectively makes it regulatory, and regulations must rest on statutory law.)

Two courts have addressed this "no rest or peace" standard. It was placed at issue in (Chapin v. Webb, 701 F. Supp. 970 (D. Conn. 1988); and Masser v. Connolly, 514 F. Supp. 734 (E.D.Pa. 1981)). In both cases, the courts ruled that the use of this standard is invalid. Yet the guideline remains in SSS materials.

Answer. There is no "...conflict between statutory law and present SSS practice regarding the definition of consicentious objection, as presented on SSS forms and draft board training materials." The "basis in fact" language in the Military Selective Service Act, section 10(b)(3) (50 U.S.C. App. 460(b)(3) is directed to the courts, not to the Selective Service local boards as stated in the question. The pertinent sentence in the statute reads: "...judicial review... shall go to the question of the jurisdiction herein reserved to local boards, appeal boards, and the President only when there is no basis in fact for the classification assigned to such registrant."

The implication in the question that decisions of United States District Courts can override a prior decision of the United States Supreme Court is truly without any basis in fact.

Also, please see Selective Service letter of March 13, 1990, to the Chairman, Committee on Appropriations, United States Senate (copy attached).

THE DIRECTOR OF SELECTIVE SERVICE
Washington, D.C. 20435

March 13, 1990

The Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in response to the Committee's direction in Senate Report 101-128 at p. 139:

> The Committee is concerned with the definition for conscientious objection that is used by the Selective Service in its regulations, procedures manual, forms, and training. The current Selective Service definition requires the conscientious objector claimant to identify and describe the mental anguish that would result from participating in war. The Committee believes this definition utilizes a speculative psychological test of mental anguish rather than the better understood belief and sincerity test. The Committee is also concerned that this may be an incorrect standard not in conformity with the Military Selective Service Act and case law, specifically the standard used in Clay v. United States, 403 U.S. 698 (1971). The Committee, therefore, directs the agency to provide a report showing that its definition conforms to Federal case law.

The Military Selective Service Act (MSSA), section 6 (j) (50 U.S.C. App. 456 (j)), in part pertinent to the interest of the Committee, provides:

> Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. As used in this subsection, the term "religious training and belief" does not include essentially political, sociological, or philosophical views, or a merely personal moral code.

There appears to be some confusion outside this Agency concerning exactly what the Selective Service System really does, in fact, do. The System has never established nor attempted to establish "...the definition for conscientious objection." What we have done is to provide considerations which a Local Board would explore with a registrant claiming conscientious objector status to ascertain his belief and sincerity as a basis for classification into Class 1-A-O and Class 1-O. See 32 CFR Part 1636 in Appendix 3. The term "mental anguish" does appear in one overhead projection visual aid in the Selective Service board training program originally designed under contract about nine years ago. This notion, among others, is intended only to describe in layman's language some considerations which a Local Board would explore with a registrant during his personal appearance (hearing) to ascertain his belief and sincerity as a basis for proper classification. Neither the listed factors, nor the term itself, are taught to be exclusive of any other factors which a board may consider in evaluating the sincerity of a claimant. The establishment of procedures, within the law and intent of the Congress, to implement a national program is accepted practice well within the administrative responsibilities of any federal agency. Additionally, 32 CFR 1630.11, .16, and .17, also in Appendix 3, and 32 CFR Part 1636 neither "...require[] the conscientious objector claimant to identify and describe the mental anguish that would result from participating in war" nor does the System "...utilize[] a speculative psychological test of mental anguish...." Therefore, the only tests for a registrant to be classified as a conscientious objector are belief and sincerity.

The Report makes clear that the Committee appreciates that judicial decisions dominate the law applicable to its area of interest. However, the Committee's suggestion that the Supreme Court's decision in Clay v. United States, 403 U.S. 698 (1971) (copy at Appendix 1) established or even contributed to the law relative to conscientious objection is without any basis in fact. The per curiam opinion in Clay merely applied settled law to the issues before the Court. That opinion is a useful brief summary of applicable law, but it adds nothing to the law pertaining to the eligibility of registrants for conscientious objector status.

Welsh v. United States, 398 U.S. 333 (1970) (copy at Appendix 2) is the latest and controlling opinion of the Supreme Court in the law relative to the eligibility of registrants for conscientious objector status. Selective Service Regulations (32 CFR 1630.11, .16, .17 and Part 1636, copy at Appendix 3) pertaining to conscientious objection to military service are faithful to the Court's opinion in Welsh which reflects the current jurisprudence of the Court pertaining to eligibility of registrants for conscientious objector status.

From all of the above, it is apparent that the Selective Service System has not created any definition for conscientious objection nor has it established a mental anguish test in addition to tests of belief and sincerity. Further, the System is satisfied that it is in conformity with Federal case law and the Military Selective Service Act.

Sincerely,

Samuel K. Lessey Jr.

Samuel K. Lessey Jr.

AMERICAN BATTLE MONUMENTS COMMISSION

STATEMENT OF MAJ. GEN. ANDREW J. ADAMS, USA, SECRETARY

ACCOMPANIED BY:
- COL. CLAYTON L. MORAN, USA, DIRECTOR, PERSONNEL AND ADMINISTRATION
- COL. WILLIAM E. RYAN, JR., USA, DIRECTOR, OPERATIONS AND FINANCE
- COL. FREDERICK C. BADGER, USA, DIRECTOR, ENGINEERING AND MAINTENANCE

Senator MIKULSKI. We are going to ask the representatives of the American Battle Monuments Commission—and we note in the audience is Colonel Ryan, General Adams, Colonel Moran, and Colonel Badger.

General Lessey, let me shake your hand, though, before you leave.

The subcommittee notes the presence of Senator D'Amato of New York.

Senator, we are about to hear from the American Battle Monuments Commission. We just heard testimony from the Selective Service.

Is there anything you want to say by way of opening statement, or should we just take their testimony?

REMARKS OF SENATOR D'AMATO

Senator D'AMATO. Madam Chairman, in the interest of time I would like to submit a statement for the record as if read in its entirety, and I thank you for noting my arrival here. I am going to have to leave, but certainly I am interested to hear from our witnesses, and I thank you.

Senator MIKULSKI. Without objection, the Senator's statement is included in the record.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Madam Chair, I welcome the opportunity to have before us representatives from the Neighborhood Reinvestment Corporation [NRC], the National Institute of Building Sciences, the Selective Service, the American Battle Monuments Commission, and the U.S. Army Cemeterial Expenses Program.

I would like to welcome Gen. A.J. Adams, Secretary of the American Battle Monuments Commission. This Commission operates and maintains 43 American military cemeteries and memorials around the world. In so doing, it plays a vital role in helping us to honor the men and women who have valiantly defended this country.

I note that the Commission's request reflects an increase of $2.5 million over last year. However, I understand that all of this increase will be needed to offset expected currency exchange losses and increases in pay and benefit costs. I would urge General Adams to address whether an essentially level-funded budget is sufficient to maintain our monuments and memorials in a manner worthy of the brave service men and women they honor.

Today we also have presenters that represent unique public-private partnerships.

The Neighborhood Reinvestment Corporation [NRC] was created under title VI of the Housing and Community Development Amendments of 1978 to implement and expand the demonstration activities of the urban reinvestment task force. The principal purpose of the Corporation is to revitalize older urban neighborhoods by mobilizing public, private, and community resources at the neighborhood level.

Nationwide, the NRC has made significant steps forward in meeting the needs of lower income neighborhoods through the public, private, and community partnerships. NRC serves 160 active NeighborWorks organizations in 141 cities, counties, and towns, covering 290 neighborhoods.

The National Institute of Building Sciences [NIBS] was created in 1974 to help resolve national concerns related to the evaluation, use, and regulation of existing and new building and housing technology. NIBS was not funded for fiscal year 1991. NIBS was authorized for fiscal year 1991 and fiscal yearf 1992 under the National Affordable Housing Act of 1990.

I look forward to hearing the testimony of all the witnesses. Thank you Madam Chair.

Senator MIKULSKI. We welcome all the colonels, three colonels and a general. We know that you are requesting a budget of $18,440,000, $2.5 million or 16 percent over fiscal 1991. We are interested in hearing your testimony.

General Adams, why do you not go right ahead with your testimony. Then we will move quickly into questions.

SUMMARY OF OPENING STATEMENT

General ADAMS. Madam Chair, I appreciate the opportunity of appearing before you to testify in support of our fiscal 1992 appropriation request and, as you have copies of my prepared statement and it will appear verbatim in the record, with your permission I will summarize its contents.

Senator MIKULSKI. General Adams, could you pull the microphone closer to you, sir.

General ADAMS. The total anticipated cost of the Korean War Veterans Memorial is $15 million. To date we have received $7,031,000 in contributions, $859,000 in net interest on the contributions that are invested, and $1 million in appropriations, for a total of $8,890,000.

Recently, a Korean war commemorative coin bill has been enacted, which should raise at least $5 million for the memorial, with a potential of $7 million. The coin bill, together with current fundraising activities, should ensure that the requisite funds will be raised, although all funds needed may not be on hand by October 28, 1991, when the deadline to obtain a building permit expires.

Also, the initial approvals by the approving authorities of the design selected in the design competition were made with reservations. Difficulty has been encountered in obtaining subsequent approvals. The current changes to the design proposed by the architect of record appear to satisfy these reservations.

Nevertheless, there is always the possibility that we may not have all the approvals of the detailed drawings and specifications by October 28, 1991. So we asked the OMB for permission to submit to you legislation to extend the time allowed to obtain a building permit from the Secretary of the Interior.

Despite the possible delays, we believe that the target date for dedicating the memorial of July 27, 1993, which is the 40th anniversary of the signing of the armistice, still can be met.

With respect to the Guadalcanal Monument, a good source for the stone is being sought and as soon as one is located and the stone has been cut and crated, it will be shipped to the site. The monument should be erected late this year or early next year.

Because of the war in the Persian Gulf, the Ambassador in Tunisia has ordered the superintendent, his family, and the assistant superintendent and their family at the North African American Cemetery and Memorial in Tunis to be evacuated to safe haven. The care of the cemetery is presently in the hands of its foreman, a foreign national.

Implementation of the new classification standards for the cemetery administrative series has resulted in better recognition of the special qualifications required of our superintendent personnel because of their sensitive and important role of representing the United States at the shrine for which they are responsible.

The value of the U.S. dollar continues to fall in the countries where we have installations. $2 million has been included in the appropriation request to offset anticipated losses in the budget year.

Our appropriation request is for $18,440,000, $2,540,000 more than the previous year. In addition to the $2 million for anticipated currency exchange losses, $540,000 is included to offset increases in pay and benefit costs.

. This concludes my summary. We would be pleased to try to answer your questions.

[The statement follows:]

STATEMENT OF GEN. ANDREW J. ADAMS

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify today in support of the American Battle Monuments Commission's fiscal 1992 Appropriation Reguest.

First I would like to bring you up-to-date on the Commission's commemorative projects which are presently in progress:

On October 29, 1986, Public Law 99–572 authorized ABMC to erect a Korean War Veterans Memorial in the Washington, DC environ, utilizing funds obtained primarily through private contributions. Since then, legislation was sought and received to locate the memorial on the mall; a superb site for it was obtained in "Ash Woods," which is adjacent to the Lincoln Memorial and across the reflecting pool from the Vietnam Memorial; a national design competition was held with the assistance of the U.S. Army Corps of Engineers; a contract was awarded to the Architecture/Engineering firm of Cooper-Lecky to assist ABMC in obtaining approval of the winning design by the three federal agencies concerned, to recommend such modifications as may be necessary to satisfy any reservations by the approving agencies, and to convert the approved design into detailed working drawings and specifications. Additionally, the eminent sculptor, Mr. Frank Gaylord of Barre, Vermont was selected to sculpt the 38 heroic size military statues which comprise the major element of the winning design. Presently, $8.6 million have been received from contributions, interest and appropriations. A Korean War Commemorative Coin Bill was recently enacted which should raise at least $5 million for the memorial, with a potential of raising $7 million. The erection of monuments and memorials in the Washington, DC environ is governed by Public Law 99–652, the Commemorative Works Act. It allows a period of 5 years for the sponsor of a memorial to obtain a building permit. In order to obtain one, the sponsor must have an approved site and design and have raised all monies necessary to erect the memorial. If more than half the monies for the memorial are obtained from private contributions, then 10 percent of the construction cost in addition to the other monies must be raised for future maintenance. There is a possibility that ABMC may not have an approved design to include detailed drawings and specifications or have on hand all of the monies required by October 28, 1991. Therefore, we are currently requesting approval from OMB to submit legislation to obtain an extension of the time allowed for obtaining a building permit.

Work on the Guadalcanal Monument continues to progress satisfactorily. The detailed drawings have been completed. As soon as a good source for the stone is located, a contract for its procurement will be awarded. Once the stone has been cut and crated, it will be transported by ship to Guadalcanal for erection. Anticipated completion time for erection is late this year or early next year.

War in the Persian Gulf is having a direct impact on ABMC operations. The U.S. Ambassador to Tunisia, in his capacity as Chief of Mission, directed that all nonessential U.S. personnel be evacuated to a safe haven because of the possibility of terrorist attacks against them and U.S. installations. At his direction, the superintendent and assistant superintendent of the North Africa Cemetery in Tunis, and their wives, were evacuated from the country. Care of the cemetery is presently in hands of the cemetery foreman, a foreign national. Periodically, a member of the Embassy will visit the cemetery to check up on its operation and care. Hopefully, the war will be concluded successfully within the next few months so that the superintendent personnel can return to resume their duties.

As discussed last year, ABMC's cemetery supervisory personnel are highly visible representatives of the United States and its past support of freedom on behalf of the host nations. They are true ambassadors of good will and are responsible largely for the outstanding care and maintenance of the shrines for which this Commission has become well known. Last year, the classification standards for the Cemetery Administrative series, GS 1630 were updated. The new standards enables us to give more adequate recognition to the special qualifications and abilities required of them. Many of our superintendent positions, all of which are manned by extremely knowledgeable, dedicated and efficient employees, have been upgraded to give proper recognition of their sensitive and important role of representing the United States in foreign countries at these unique and honored shrines.

The value of the U.S. dollar continues to fall in the foreign countries where our installations are located. ABMC's currency fluctuation account at the beginning of the current year contained, $1,370,000. First Quarter losses were $410,000 reducing this sum to $960,000. $2,000,000 are included in the Appropriation Reguest to offset anticipated losses during the budget year. These funds will be deposited in the fluctuation account and utilized solely for that purpose. It is anticipated that all of them will be required to offset losses.

This Commission's Appropriation request for fiscal 1992 is $18,440,000, $2,540,000 more than the fiscal 1991 Appropriation. Of the increase, $2,000,000 are to offset anticipated currency exchange losses and $540,000 are to offset increases in pay and benefit costs.

This concludes my prepared statement. We will be pleased to respond to your questions.

Senator MIKULSKI. Thank you very much, General. How is your new headquarters? You had a fire last year and we gave you an urgent supplemental, and I know that you came in quickly, on time, and under budget. How are you doing over there now?

General ADAMS. Fairly well. Allegedly we will be moving next week, February 26, 1 month short of a year.

Senator MIKULSKI. You have really moved it. But you are, then, satisfied that you will be ready to move back in?

General ADAMS. Yes, ma'am.

Senator MIKULSKI. Well, that is fantastic.

CURRENCY EXCHANGE LOSSES

Also, your agency has been hit by something outside of your control, which is the fluctuation of the dollar. As I understand it, this is what this $2 million is going to be used for; is that right?

General ADAMS. Of the $18,440,000, $2 million is for currency exchange. Those funds will be deposited in a currency exchange account and will only be used if the rate of exchange received is less than the rate at which we budgeted.

Senator MIKULSKI. So you want to hold the $2 million?

General ADAMS. Yes; it will be deposited with the Treasury; we will not use it unless it is needed to compensate for currency exchange losses. If the exchange rates received are greater than those we budgeted, then the difference will be deposited in the fund.

Senator MIKULSKI. Do you feel that this is an adequate amount to be there for you?

General ADAMS. All I can say on that is that we hope so.

Senator MIKULSKI. You know, this issue around fluctuation of foreign currency has hit other agencies, from humanitarian efforts like AID, as well as very significant work like yourself. Is there no method that we can help deal with this issue, or do we just have to sweat it out?

Is there any way we can get a good from these governments where our monuments are, that would help us with our exchange problem? After all, where these monuments are are a tribute not only to our own fighting people, but what we did there for democracy.

General ADAMS. The governments of the foreign countries in which our installations are located grant us free use of the land in perpetuity, without charge or taxation. They also allow us to import supplies, materials, spare parts, and equipment free of charge, that sort of thing.

Other than that, there is no contribution.

Senator MIKULSKI. Well, we hope that this holds. We were very concerned about it.

MAINTENANCE AND REPAIRS

The next question I have is the question of maintenance costs. We understand last year that there was a backlog that had accumulated of about $3 million and, because of unexpected personnel costs, pension benefits, a whole variety of other things, there was some lack of sufficient funds in your agency and a backlog developed.

Would you tell us where you are in dealing with that backlog and what are, say, the top five projects that you anticipate handling?

General ADAMS. Insofar as the backlog is concerned, Madam Chair, we are going backward. We have at the present time about a little over 7 million dollars' worth of projects in our backlog. They concern—I can give you a complete listing of the projects if you wish.

Senator MIKULSKI. We would like the list.

General ADAMS. It is four pages in length, single spaced.

[The information follows:]

DEFERRED PROJECTS IN PRIORITY

Priority	Cemetery/Memorial	Project	O.C. 25	O.C. 32	Cum Total
1	Cambridge Cemetery	Reset walk by walls of missing	30,000	0	30,000
2	Cambridge Cemetery	Reset wall of missing	80,000	0	110,000
3	Aisne-Marne Cemetery	Repair memorial roof	40,000	0	150,000
4	Meuse Argonne Cemetery	Replace transformer	10,000	0	160,000
5	Lorraine Cemetery	Rewire Memorial	15,000	0	175,000
6	Cambridge Cemetery	Rewire Visitors Building & Memorial	18,000	0	193,000
7	Flanders Field Cemetery	Rewire Visitors Building & Quarters	3,000	0	196,000
8	Normandy Cemetery	Replace gutters, all buildings	14,000	0	210,000
9	Saint Mihiel Cemetery	Replace Visitors Bldg & Off windows	6,000	0	216,000
10	Meuse Argonne Cemetery	Replace sprinkler pump	10,000	0	226,000
11	Meuse Argonne Cemetery	Clean and treat Memorial	60,000	0	286,000
12	Brittany Cemetery	Rewire Chapel & pumping station	14,000	0	300,000
13	Meuse Argonne Cemetery	Replace garage furnace	0	5,000	305,000
14	Henri-Chapelle Cemetery	Reconstruct entrance wall	15,000	0	320,000
15	Normandy Cemetery	Resurface cemetery paths	95,000	0	415,000
16	Henri-Chapelle Cemetery	Install city water	0	5,000	420,000
17	Meuse Argonne Cemetery	Repair flagpole stone bases	14,000	0	434,000
18	Suresnes Cemetery	Reconstruct Memorial terrace	83,000	0	517,000
19	Epinal Cemetery	Repair cemetery pools	5,000	0	522,000
20	Aisne-Marne Cemetery	Install entrance gate curbs	0	6,000	528,000
21	Utah Beach Memorial	Install sprinkler system	0	4,000	532,000
22	Lorraine Cemetery	Repaint Fillod building	12,000	0	544,000
23	Epinal Cemetery	Repair Memorial roof and gutters	9,000	0	553,000
24	Ardennes Cemetery	Replace Memorial heating system	15,000	0	568,000
25	Epinal Cemetery	Repair perimeter wall coping	33,000	0	601,000
26	Pointe du Hoc Memorial	Reconstruct parking area	40,000	0	641,000
27	Henri-Chapelle Cemetery	Extend refectory building	0	15,000	656,000
28	Kemmel Memorial	Repoint Memorial terrace	9,000	0	665,000
29	Lorraine Cemetery	Repair east cemetery fence	10,000	0	675,000
30	Cambridge Cemetery	Enclose compost shed	0	9,000	684,000
31	Netherlands Cemetery	Replace roof eaves & gutters, both quarters	50,000	0	734,000
32	Montsec Memorial	Rehabilitate battle maps	12,000	0	746,000
33	Netherlands Cemetery	Replace windows & shutters, both quarters	0	30,000	776,000
34	Oise-Aisne Cemetery	Replace Memorial broken stones	6,000	0	782,000
35	Suresnes Cemetery	Resurface and widen paths	50,000	0	832,000
36	Suresnes Cemetery	Relocate gasoline pump	15,000	0	847,000
37	Suresnes Cemetery	Relevel headstone beams	45,000	0	892,000
38	Rhone Cemetery	Rewire Memorial	5,000	0	897,000
39	Luxembourg Cemetery	Renovate bathrooms, both quarters	0	9,000	906,000
40	Corozal Cemetery	Improve grass Phase IV of VI	0	35,000	941,000
41	Meuse Argonne Cemetery	Replace furnaces, both quarters	7,000	0	948,000
42	Meuse Argonne Cemetery	Resurface walks ease & west pylons	8,000	0	956,000
43	Mountfaucon Memorial	Resurface access road	9,000	0	965,000
44	Brittany Cemetery	Renovate water supply system	20,000	0	985,000
45	Luxembourg Cemetery	Re-enamel arrows on battle maps	15,000	0	1,000,000
46	Lorraine Cemetery	Replace shutters, both quarters	20,000	0	1,020,000
47	Brittany Cemetery	Install automatic sprinkler system	0	150,000	1,170,000
48	Luxembourg Cemetery	Regild Alter Cross and candelabras	5,000	0	1,175,000
49	Luxembourg Cemetery	Resurface service roads	45,000	0	1,220,000
50	Luxembourg Cemetery	Rewire Chapel	3,000	0	1,223,000
51	Flanders Field Cemetery	Install automatic sprinkler system	0	70,000	1,293,000
52	Saint Mihiel Cemetery	Construct new service area	0	100,000	1,393,000

Priority	Cemetery/Memorial	Project	O.C. 25	O.C. 32	Cum Total
53	Epinal Cemetery	Rehabilitate gilded features	3,000	0	1,396,000
54	Brest Memorial	Install automatic sprinkler system	0	20,000	1,416,000
55	Saint Mihiel Cemetery	Install new sprinkler pumps	0	100,000	1,516,000
56	Ardennes Cemetery	Replace furnaces, both quarters	5,000	0	1,521,000
57	Ardennes Cemetery	Regild Alter Cross	4,000	0	1,525,000
58	Aisne-Marne Cemetery	Construct water treatment plant	0	30,000	1,555,000
59	Aisne-Marne Cemetery	Reconstruct main entrance paths	22,000	0	1,577,000
60	Brookwood Cemetery	Rehabilitate Superintendent's quarters	0	10,000	1,587,000
61	Rhone Cemetery	Repoint Wall of Missing	9,000	0	1,596,000
62	Netherlands Cemetery	Repair floor, both quarters	25,000	0	1,621,000
63	Montsec Memorial	Resurface Memorial landing steps	15,000	0	1,636,000
64	Luxembourg Cemetery	Regild entrance gate	12,000	0	1,648,000
65	Lorraine Cemetery	Replace garage and workshop doors	3,000	0	1,651,000
66	Lorraine Cemetery	Resurface Memorial area paths	55,000	0	1,706,000
67	Epinal Cemetery	Renovate Assistant Supt's bathroom	0	4,000	1,710,000
68	Chateau-Thierry	Replace windows & grills	3,000	0	1,713,000
69	Cambridge Cemetery	Storm windows, Assistant Supt's quarters	0	9,000	1,722,000
70	Ardennes Cemetery	Repolish Memorial maps	8,000	0	1,730,000
71	Ardennes Cemetery	Rehabilitate bathrooms, both qtrs	0	13,000	1,743,000
72	Ardennes Cemetery	Install storm windows, Supt's qtrs	0	6,000	1,749,000
73	Ardennes Cemetery	Enclose Supt's back porch	0	3,000	1,752,000
74	Cambridge Cemetery	Insulate attic, both quarters	0	9,000	1,761,000
75	Epinal Cemetery	Improve employees' lunchroom	0	3,000	1,764,000
76	Netherlands Cemetery	Repair Memorial flagstone steps	12,000	0	1,776,000
77	Suresnes Cemetery	Repolish Memorial marble walls	8,000	0	1,784,000
78	Somme Cemetery	Repaint flagpole	12,000	0	1,796,000
79	Somme Cemetery	Install Visitors Building shutters	0	9,000	1,805,000
80	Netherlands Cemetery	Clean and treat Memorial	99,000	0	1,904,000
81	Lorraine Cemetery	Install storm windows, both qtrs	0	35,000	1,939,000
82	Lorraine Cemetery	Replace kitchen cabinets, both qtrs	24,000	0	1,963,000
83	Henri-Chapelle Cemetery	Construct visitors room & office	0	21,000	1,984,000
84	Henri-Chapelle Cemetery	Repair colonade ceiling	25,000	0	2,009,000
85	Epinal Cemetery	Rehabilitate Assistant Supt's qtrs	3,000	0	2,012,000
86	Chateau-Thierry	Install electricity	0	8,000	2,020,000
87	Ardennes Cemetery	Relevel lawns and install drainage	0	18,000	2,038,000
88	Ardennes Cemetery	Repair roofs, five buildings	18,000	0	2,056,000
89	Henri-Chapelle Cemetery	Rehabilitate public toilets	18,000	0	2,074,000
90	Meuse Argonne Cemetery	Replace Visitors Bldg roof tiles	20,000	0	2,094,000
91	Oise-Aisne Cemetery	Resurface service area washrack	5,000	0	2,099,000
92	Cambridge Cemetery	Install new sprinkler system	0	150,000	2,249,000
93	Utah Beach Memorial	Resurface esplanade	5,000	0	2,254,000
94	Rhone Cemetery	Repair retaining wall and fence	20,000	0	2,274,000
95	Ardennes Cemetery	Resurface service roads	0	20,000	2,294,000
96	Ardennes Cemetery	Repair cracked Memorial window	6,000	0	2,300,000
97	Brittany Cemetery	Construct workshop in garage	0	20,000	2,320,000
98	Ardennes Cemetery	Repair east service road ditch	9,000	0	2,239,000
99	Somme Cemetery	Repair north east Chapel wall	15,000	0	2,344,000
100	Suresnes Cemetery	Regild main entrance gate	12,000	0	2,356,000
101	Somme Cemetery	Repair Visitors Bldg & qtrs windows	12,000	0	2,368,000
102	Somme Cemetery	Rebronze antique green features	8,000	0	2,376,000
103	Somme Cemetery	Install storm drain, service area	0	12,000	2,388,000
104	Corozal Cemetery	Install intrusion alarm	0	10,000	2,398,000
105	Cambridge Cemetery	Resurface main entrance way	12,000	0	2,410,000
106	Brittany Cemetery	Repair terrace stone slabs	7,000	0	2,417,000

Priority	Cemetery/Memorial	Project	O.C. 25	O.C. 32	Cum Total
107	Cambridge Cemetery	Relevel west Memorial sidewalk	40,000	0	2,457,000
108	Ardennes Cemetery	Install automatic sprinkler system	0	100,000	2,557,000
109	Netherlands Cemetery	Resurface Court of Honor	65,000	0	2,622,000
110	Brookwood Cemetery	Rebuild flagpole stone base	4,000	0	2,626,000
111	Pointe du Hoc Memorial	Construct sewage plant	0	35,000	2,661,000
112	Rhone Cemetery	Install ventilation in Wall of Missing	0	9,000	2,670,000
113	Brittany Cemetery	Rehabilitate river pumping station	20,000	0	2,690,000
114	Garches Office	Extend parking area	0	10,000	2,700,000
115	Suresnes Cemetery	Paint perimeter fence	60,000	0	2,760,000
116	Ardennes Cemetery	Install pump room ventilation	0	5,000	2,765,000
117	Cambridge Cemetery	Refurbish Visitors Building	3,000	0	2,768,000
118	Chateau-Thierry	Renovate basement rooms	0	14,000	2,782,000
119	Cantigny Memorial	Replace perimeter fence	5,000	0	2,787,000
120	Flanders Field Cemetery	Replace Visitors Bldg windows & shutters	8,000	0	2,795,000
121	Lorraine Cemetery	Install workshop floor tile	0	3,000	2,798,000
122	Lorraine Cemetery	Insulate toilet building	0	6,000	2,804,000
123	Meuse Argonne Cemetery	Rewire all buildings	20,000	0	2,824,000
124	Netherlands Cemetery	Resurface perimeter road	15,000	0	2,839,000
125	Luxembourg Cemetery	Replace furnaces, both quarters	8,000	0	2,847,000
126	Lorraine Cemetery	Resurface service area	9,000	0	2,856,000
127	Rhone Cemetery	Install service building rolling doors	0	6,000	2,862,000
128	Suresnes Cemetery	Clean and treat Visitors Building	10,000	0	2,872,000
129	Ardennes Cemetery	Rewire all buildings	15,000	0	2,887,000
130	Cambridge Cemetery	Clean and treat Memorial	80,000	0	2,967,000
131	Epinal Cemetery	Pave cemetery paths with hot mix	0	125,000	3,092,000
132	Henri-Chapelle Cemetery	Rewire all buildings	18,000	0	3,110,000
133	Lorraine Cemetery	Repoint Memorial steps	18,000	0	3,128,000
134	Lorraine Cemetery	Enlarge office	0	55,000	3,183,000
135	Netherlands Cemetery	Install automatic sprinkler system	0	140,000	3,323,000
136	Somme Cemetery	Install automatic sprinkler system	0	60,000	3,383,000
137	Mexico City Cemetery	Replace garage doors	4,000	0	3,387,000
138	Oise-Aisne Cemetery	Replace Fillod building	50,000	0	3,437,000
139	Pointe du Hoc Memorial	Construct new toilets	0	80,000	3,517,000
140	Pointe du Hoc Memorial	Construct service building	0	190,000	3,707,000
141	Rhone Cemetery	Repair quarters & service bldg roofs	15,000	0	3,722,000
142	Utah Beach Memorial	Install six stone benches	0	4,000	3,726,000
143	Suresnes Cemetery	Repaint flagpoles	8,000	0	3,734,000
144	Suresnes Cemetery	Repair Superintendent's driveway	35,000	0	3,769,000
145	Somme Cemetery	Insulate quarters attic	0	2,000	3,771,000
146	Saint Mihiel Cemetery	Repair roof & enclose compost shed	0	15,000	3,786,000
147	Rhone Cemetery	Extend parking area	0	3,000	3,789,000
148	Epinal Cemetery	Replace roof tiles, both quarters	18,000	0	3,807,000
149	Luxembourg Cemetery	Protect Memorial door panels	0	9,000	3,816,000
150	Meuse Argonne Cemetery	Repair Chapel road curbstones	4,000	0	3,820,000
151	Meuse Argonne Cemetery	Extend curbing, nursery road	0	4,000	3,824,000
152	Brittany Cemetery	Replace Visitors Building Insulation	3,000	0	3,827,000
153	Suresnes Cemetery	Extend Superintendent's office	0	55,000	3,882,000
154	Brittany Cemetery	Install quarters & Visitors Building storm windows	0	9,000	3,891,000
155	Cambridge Cemetery	Rehabilitate Visitors Building toilets	0	3,000	3,894,000
156	Epinal Cemetery	Repair flagpole stone base	18,000	0	3,912,000

Priority	Cemetery/Memorial	Project	O.C. 25	O.C. 32	Cum Total
157	Henri-Chapelle Cemetery	Insulate Asst Supt's qtrs attic	0	2,000	3,914,000
158	Lorraine Cemetery	Construct ceiling in garage	0	7,000	3,921,000
159	Lorraine Cemetery	Refurbish Memorial window bronze	18,000	0	3,939,000
160	Luxembourg Cemetery	Improve Asst Supt's quarters attic	0	9,000	3,948,000
161	Luxembourg Cemetery	Replace carpeting, both quarters	5,000	0	3,953,000
162	Luxembourg Cemetery	Replace telephone system	4,000	0	3,957,000
163	Mountfaucon Memorial	Reinforce Church arches	10,000	0	3,967,000
164	Netherlands Cemetery	Improve Asst Supt's quarters attic	0	3,000	3,970,000
165	Normandy Cemetery	Install storm windows, both qtrs	0	8,000	3,978,000
166	Oise-Aisne Cemetery	Restore river pump station	0	3,000	3,981,000
167	Suresnes Cemetery	Install Chapel floodlights	0	3,000	3,984,000
168	Brookwood Cemetery	Enclose compost shed	0	5,000	3,989,000
169	Brittany Cemetery	Install dormer windows, both qtrs	0	18,000	4,007,000
170	Lorraine Cemetery	Resurface Visitors bldg sidewalk	6,000	0	4,013,000
171	Rhone Cemetery	Install boundary fence	0	10,000	4,023,000
172	Rhone Cemetery	Resurface parking area	16,000	0	4,039,000
173	Rhone Cemetery	Repair west boundary wall	7,000	0	4,046,000
174	Oise-Aisne Cemetery	Repoint Memorial rear joints	6,000	0	4,052,000
175	Oise-Aisne Cemetery	Replace Visitors Building wood trim	3,000	0	4,055,000
176	Normandy Cemetery	Restore Visitors Building, Ph II	0	24,000	4,079,000
177	Meuse Argonne Cemetery	Modify sprinkler system	0	50,000	4,129,000
178	Corozal Cemetery	Reinforce maintenance building	35,000	0	4,164,000
179	Luxembourg Cemetery	Install automatic sprinkler system	0	150,000	4,314,000
180	Henri-Chapelle Cemetery	Install automatic sprinkler system	0	150,000	4,464,000
181	Suresnes Cemetery	Install spot lights in Chapel	0	3,000	4,467,000
182	Suresnes Cemetery	Extend service area platform	0	4,000	4,471,000
183	Suresnes Cemetery	Paint & regild Memorial ironwork	8,000	0	4,479,000
184	Meuse Argonne Cemetery	Move refectory upstairs	0	8,000	4,487,000
185	Aisne-Marne Cemetery	Construct stairs to basement	0	8,000	4,495,000
186	Ardennes Cemetery	Improve attics, both quarters	0	8,000	4,503,000
187	Ardennes Cemetery	Construct security exit, refectory	0	3,000	4,506,000
188	Ardennes Cemetery	Restore Memorial steel doors	15,000	0	4,521,000
189	Brittany Cemetery	Resurface service roads	15,000	0	4,536,000
190	Honolulu Memorial	Repoint Memorial	35,000	0	4,571,000
191	Henri-Chapelle Cemetery	Resurface roads and paths	60,000	0	4,631,000
192	Lorraine Cemetery	Improve Asst Supt's quarters attic	0	9,000	4,640,000
193	Netherlands Cemetery	Repair bronze statues stone bases	12,000	0	4,652,000
194	Normandy Cemetery	Clean and treat Chapel	22,000	0	4,674,000
195	Somme Cemetery	Repaint fence	90,000	0	4,764,000
196	Brittany Cemetery	Improve attics, both quarters	0	9,000	4,773,000
197	Cambridge Cemetery	Insulate and heat exterior toilet	0	9,000	4,782,000
198	Pointe du Hoc Memorial	Pave footpaths	0	12,000	4,794,000
199	Henri-Chapelle Cemetery	Rebuild storage building roof	60,000	0	4,854,000
200	Corozal Cemetery	Improve grass Phase VI of VI	0	45,000	4,899,000
201	Luxembourg Cemetery	Install grills, entrance gate	0	4,000	4,903,000
202	Ardennes Cemetery	Resurface service roads	0	2,000	4,905,000
203	Lorraine Cemetery	Enclose compost shed	0	25,000	4,911,000
204	Sommepy Memorial	Construct access road & extend parking	0	25,000	4,936,000
205	Meuse Argonne Cemetery	Install pool treatment	0	28,000	4,964,000
206	Suresnes Cemetery	Replace workshop toilet fixtures	4,000	0	4,968,000
207	Henri-Chapelle Cemetery	Gild eagles on pylons	0	12,000	4,980,000
208	Meuse Argonne Cemetery	Construct garage, both quarters	0	20,000	5,000,000
209	Netherlands Cemetery	Enlarge Visitors Building toilets	0	30,000	5,030,000
210	Normandy Cemetery	Repair beach paths	18,000	0	5,048,000
211	Mexico City Cemetery	Repair crypts	15,000	0	5,063,000
212	Rhone Cemetery	Re-stucco main water reservoir	10,000	0	5,073,000

Priority	Cemetery/Memorial	Project	O.C. 25	O.C. 32	Cum Total
213	Normandy Cemetery	Resurface service area	5,000	0	5,078,000
214	Suresnes Cemetery	Install Memorial ventilation	0	9,000	5,087,000
215	Cambridge Cemetery	Reconstruct long stairs pavement	12,000	0	5,099,000
216	Luxembourg Cemetery	Replace perimeter fence	30,000	0	5,129,000
217	Henri-Chapelle Cemetery	Replace south east perimeter fence	17,000	0	5,146,000
218	Meuse Argonne Cemetery	Install sewer system, Visitors bldg	0	6,000	5,152,000
219	Oise-Aisne Cemetery	Replace boundary fence	50,000	0	5,202,000
220	Rhone Cemetery	Reconstruct Chapel terrace	0	60,000	5,262,000
221	Henri-Chapelle Cemetery	Reconstruct Memorial terrace	0	240,000	5,502,000
222	Normandy Cemetery	Install access road curbing	0	55,000	5,557,000
223	Brest Memorial	Install night lighting	0	8,000	5,565,000
224	Cambridge Cemetery	Rehabilitate Superintendent's attic	0	10,000	5,575,000
225	Cambridge Cemetery	Repair north entrance stone work	20,000	0	5,595,000
226	Normandy Cemetery	Install wire fence, both quarters	0	5,000	5,600,000
227	Luxembourg Cemetery	Protect battle maps	0	15,000	5,615,000
228	Luxembourg Cemetery	Enclose compost shed	0	5,000	5,620,000
229	Luxembourg Cemetery	Replace Chapel window frames	15,000	0	5,635,000
230	Flanders Field Cemetery	Repair flagpole brick terrace	15,000	0	5,650,000
231	Normandy Cemetery	Construct dormers, Asst Supt's qtrs	0	9,000	5,659,000
232	Netherlands Cemetery	Rewire service building	20,000	0	5,679,000
233	Somme Cemetery	Replace quarters slate roof	12,000	0	5,691,000
234	Henri-Chapelle Cemetery	Construct north east service way	0	40,000	5,731,000
235	Epinal Cemetery	Construct canopy, Supt's quarters	0	10,000	5,741,000
236	Normandy Cemetery	Construct garage, both quarters	0	18,000	5,759,000
237	Pointe du Hoc Memorial	Install exterior lights	0	7,000	5,666,000
238	Normandy Cemetery	Construct greenhouse complex	0	20,000	5,786,000
239	Somme Cemetery	Replace qtrs slate hooks & gutters	0	32,000	5,818,000
240	Lorraine Cemetery	Construct additional parking	0	32,000	5,850,000
241	Ardennes Cemetery	Extend parking area	0	40,000	5,890,000
242	Normandy Cemetery	Surface road to old compost area	8,000	0	5,898,000
243	Normandy Cemetery	Repair Memorial maps	7,000	0	5,905,000
244	Normandy Cemetery	Rebuild path to east gate	0	9,000	5,914,000
245	Suresnes Cemetery	Construct service building	0	145,000	6,059,000
246	Lorraine Cemetery	Install alarm, all buildings	0	10,000	6,069,000
247	Luxembourg Cemetery	Install alarm, all buildings	0	3,000	6,073,000
248	Normandy Cemetery	Install video at parking lot	0	50,000	6,122,000
249	Rhone Cemetery	Install security system	0	6,000	6,128,000
250	Pointe du Hoc Memorial	Landscape battle site	0	100,000	6,228,000
251	Pointe du Hoc Memorial	Install perimeter fence	0	20,000	6,248,000
252	Rhone Cemetery	Elevate battle map	15,000	0	6,263,000
253	Netherlands Cemetery	Construct new parking and toilets	0	130,000	5,393,000
254	Henri-Chapelle Cemetery	Construct new reception building	0	140,000	6,533,000
255	Henri-Chapelle Cemetery	Construct new visitors' toilets	0	55,000	6,588,000
256	Henri-Chapelle Cemetery	Construct parking & access road	0	9,000	6,597,000
257	Henri-Chapelle Cemetery	Construct verandas, both quarters	0	12,000	6,609,000
258	Meuse Argonne Cemetery	Rehabilitate Quarters No. 3	0	80,000	6,689,000
259	Luxembourg Cemetery	Repair Memorial terrace	80,000	0	6,769,000
260	Luxembourg Cemetery	Insulate exterior of both quarters	0	25,000	6,794,000
261	Meuse Argonne Cemetery	Rewire marble repair shop	3,000	0	6,797,000
262	Henri-Chapelle Cemetery	Rehabilitate kitchens, both qtrs	0	24,000	6,821,000
263	Florence Cemetery	Clear river banks of undergrowth	4,000	0	6,825,000
264	Honolulu Memorial	Reset grand stairs	150,000	0	6,975,000
265	Florence Cemetery	Clean and treat Visitors Building	20,000	0	6,995,000
266	Meuse Argonne Cemetery	Replace telephone system	4,000	0	6,999,000
267	Cambridge Cemetery	Replace Asst Supt's quarters floor tiles	5,000	0	7,004,000

Priority	Cemetery/Memorial	Project	O.C. 25	O.C. 32	Cum Total
268	Normandy Cemetery	Install six stone benches	0	6,000	7,010,000
269	Manila Cemetery	Reline water treatment tanks	7,000	0	7,017,000
270	North Africa Cemetery	Replace pumps in pump house	80,000	0	7,097,000
271	Manila Cemetery	Place power lines underground	0	15,000	7,112,000
272	North Africa Cemetery	Replant oases at Cemetery	65,000	0	7,177,000
273	Corozal Cemetery	Replace electric service to Chapel	15,000	0	7,192,000
274	Manila Cemetery	Repave service area	35,000	0	7,227,000
275	Sicily-Rome Cemetery	Install foundation drains Supt's quarters	0	8,000	7,235,000
276	Florence Cemetery	Improve hill drainage	0	35,000	7,270,000
277	Sicily-Rome Cemetery	Replace pumping station pumps	0	40,000	7,310,000
278	Mexico City Cemetery	Replace palms in cemetery	9,000	0	7,319,000
279	Manila Cemetery	Replace deep well pump	25,000	0	7,344,000
280	Corozal Cemetery	Improve workers dressing area	0	8,000	7,352,000
281	Corozal Cemetery	Reseal roads	25,000	0	7,377,000
282	Florence Cemetery	Replace pumps in pump room	25,000	0	7,402,000
283	Corozal Cemetery	Convert Chapel to Visitors Center	0	78,000	7,480,000
284	Luxembourg Cemetery	Replace garage & storage buildings doors	8,000	0	7,488,000
285	Luxembourg Cemetery	Resurface footpaths	80,000	0	7,568,000
286	Montsec Memorial	Rehabilitate battle maps	12,000	0	7,580,000
287	Kemmel Memorial	Repoint terrace	9,000	0	7,589,000
288	Cantigny Memorial	Replace perimeter fence	9,000	0	7,598,000
289	Brookwood Cemetery	Relevel paths and curbstones	15,000	0	7,613,000
290	Brest Memorial	Resurface Memorial terrace	20,000	0	7,633,000
291	Oise-Aisne Cemetery	Repair service building roof tiles	9,000	0	7,642,000
292	Luxembourg Cemetery	Rewire both quarters	8,000	0	7,650,000

General ADAMS. Basically we are talking about roads and paths, terraces, and other paved surfaces, which are 30 to 60 years old and, as you well know, such surfaces degenerate during severe weather with its freezes and thaws. We are also talking about renovation and/or replacement of some of our structures and their utilities that are anywhere from 30 to 60 years old.

The cleaning of our large stone structures is a periodic and expensive requirement. They get dirty from pollution just as the Capitol here does. These structures need cleaning every 15 to 25 years, depending on their location.

Those are the sorts of things that are in this list of 7 million dollars' worth of back projects. Does that answer your question?

Senator MIKULSKI. I think it does. That tells us what the needs are. We know that. In other words, we know the validity of the needs. What we were trying to get a picture of is the list of them and the priorities in which you want to deal with them. That is why I wondered if there was a top five that essentially becomes, no matter what, a must-do.

General ADAMS. Yes; the projects on the list are in order of priority. But I would like to express a reservation or caveat. Priorities can change. For example, at home, if you have a sidewalk that needs fixing and you have budgeted money for it and all of a sudden the roof starts leaking, you are going to fix the roof first. Or if a fence is damaged and you had planned to——

Senator MIKULSKI. No; I know the nature of the kind of repairs. My question is what needs it? Guadalcanal, Normandy, you have monuments, significant and very poignant monuments, in Western

Europe. You have them also in other parts of the world that, because of weather, take a beating, exactly as you said.

Why do we not just wait and get the list.

General ADAMS. The priority is in Europe, where the weather is more severe—where our structures are the oldest.

Senator MIKULSKI. The more rugged the winter, the more you need to do the repair?

General ADAMS. Yes.

Senator MIKULSKI. Well, thank you, and we will look forward to getting that list and see how we can cooperate with that.

PAY COSTS

General, you heard your predecessors in testimony testify that they did not include in their budget the 1992 anticipated pay raise. This has also been a problem as you have tried to struggle with your budget allocations.

Could you tell us, if a Federal pay raise is enacted at 4 percent, what you would anticipate the need to be? Perhaps either you or Colonel Ryan could help us.

General ADAMS. Well, I will answer to begin with and then I will turn it over to Colonel Ryan. A 4.1-percent pay increase for our U.S. personnel is a relatively small cost compared to the 10- to 14-percent cost-of-living increase, usually decreed for our foreign national employees annually.

Go ahead.

Colonel RYAN. Yes, sir. In 1990, our cost-of-living pay raises were $578,000. Since those were the most current figures we had, we incorporated that same amount in our 1992 budget request. So we should be all right with the amount that has been requested for pay and personnel benefits.

KOREAN WAR VETERANS MEMORIAL

Senator MIKULSKI. I think that clarifies it. Let me then go on. I know that you have had many duties and responsibilities, and one is the Korean War Memorial. Could you tell us the status of the Korean Memorial in terms of its planning and its progress?

General ADAMS. Yes; I will try. In accordance with the authorizing legislation, a Korean War Veterans Memorial Advisory Board was appointed by the President to recommend a site, select a design, publicize the memorial, and encourage donations. The design selected, upon approval by ABMC, was presented to the National Capitol Planning Commission, the Fine Arts Commission, and the Department of the Interior, all of which had some reservations about it.

The design was then given to the architect of record to suggest changes to overcome the reservations by the approving authorities. An amended design was subsequently presented to the Commission of Fine Arts which disapproved it.

A second amended design will soon be presented to the Fine Arts Commission and the Capitol Planning Commission for approval.

Colonel BADGER. Tomorrow.

General ADAMS. Beginning tomorrow. So after that we will find out what further refinements we have to make.

Senator MIKULSKI. It has taken as long to get approval for the design as it was to fight the war in Korea.

General ADAMS. Yes, ma'am. Let me tell you a little story. In 1966, the Congress passed legislation which directed us to erect a memorial to the AEF and General Pershing downtown, which was not long before I came on the Commission. The memorial was finally erected in 1982, and I remember speaking to Congressman Rooney from New York and trying to explain to him was required to obtain approval of the design.

His reply to me was: "Well, son, you better go get yourself some mirrors; that is the only way you are going to get it approved."

ESTIMATED COST OF THE MEMORIAL

Senator MIKULSKI. Well, I think Rooney had a lot to say, had a lot to offer.

We will look forward to hearing the progress on this, and I think it must then be difficult, until the design is completed, to have any estimate essentially about what the cost will be. Or do you have a general expectation of the cost?

General ADAMS. Yes, ma'am. With the present design, we estimate it will cost nearly $15 million, $14,900,000 to be more precise, in round figures $15 million.

Senator MIKULSKI. And how does that compare with the original estimate?

General ADAMS. The original estimate was in the neighborhood of $7 million.

Senator MIKULSKI. Has it been due to design or just time delays that added to inflation?

General ADAMS. Inflation and a much more expensive design. Anything to add to that?

Colonel BADGER. No, sir; mostly the cost of the design, sir.

General ADAMS. Mostly design.

Senator MIKULSKI. That is about an $8 million add-on. That is about 100 percent.

Colonel BADGER. If I may——

Senator MIKULSKI. Our friends from the aesthetic community, who vigorously opposed the memorial to women who fought and who had been in Vietnam, are they conscious of the cost? In other words, you have got to go through this Board. I have been cranky with this Board because I think they really were very obnoxious to the Vietnam nurses.

Having said that, now we have got that settled. Now they are dancing around on the design for our Korean heroes. I would like to get on with it, and I know you want to get on with it, General. Now, are they making these design changes that are adding to the cost, do not necessarily enhance our tribute to the veterans, and, therefore, we are just dragging it out and dragging it out, waiting for curlicue this and baroque that?

Colonel BADGER. No, Madam Chair; I do not believe that is the cause. We do and we have from the initial concept planned to pay tribute to all services, to include women, that supported the war in Korea, and there has not been a change in scope.

Senator MIKULSKI. No; I am not worried about women in terms of Korea. That is my other fight.

Colonel BADGER. I just wanted to cover that.

Senator MIKULSKI. But I just want you to be clear. My fight was with the Architect of this Capitol and also the chair of that Board, who just did not want any memorials to anybody on the Mall.

Colonel BADGER. If I may continue, the cost escalation principally was due to the fact that when we estimated an initial cost of approximately $7 million we did not envision as complex a solution as was chosen by the Korean War Veterans Memorial Advisory Board. As authorized by law, it selected the winning design. Consequently, we had to increase the estimate of cost to meet the more complex solution.

The problems that we are encountering right now stem from the concerns of the various commissions regarding circulation, containment, things of that nature, and an attempt to keep it a simple memorial rather than a complex one. In our last appearance before the Commission of Fine Arts, it was concerned with the three-stage solution, where you went through three different elements. The Commission would like to have it portray a single solution or experience and this is what we hope to present to it tomorrow.

Senator MIKULSKI. Well, that sounds good, because usually it is a little more complicated than that.

Well, that really answers our questions. It seems that your problem is not the lack of will and determination, but a lack of a wallet and a full wallet, and you have been hit by things that you could have no control over: fluctuation of currency and additional pay raises.

So as we move through our own budget deliberation, we are going to see how we can help you with the backlog and help you meet your responsibility. We are all so conscious now of Desert Storm, but we have our tribute to veterans of other wars, and the Battle Monument Commission certainly is one of the most visible focal points of our acknowledgment of previous sacrifice. So we are going to work with you all we can.

Thank you, General.

Is there anything else you gentlemen wanted to add?

Colonel Ryan?

Colonel RYAN. Yes; may I point out just one thing. This was an oversight on my part. I noticed in the appropriation legislation that it is deleting the $125,000 annual authorization for the Korean War Veterans Memorial Advisory Board administrative costs. The Board will still be functioning in 1992 and therefore the authorization should remain.

Mr. KELLY. It is in the President's budget.

Colonel RYAN. It is shown as a deletion in the President's budget, but it should remain. OBM is in agreement.

Senator MIKULSKI. So they did not mean to do it, they did not mean to do it.

Colonel RYAN. That is correct.

Senator MIKULSKI. Well, thank you for bringing it to our attention, Colonel.

Thank you, General Adams. Please keep up your own good work.

General ADAMS. Thank you, Madam Chair. We certainly enjoyed coming over here.

Senator MIKULSKI. Thank you

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

MAINTENANCE AND IMPROVEMENT PROJECTS

Question. Would you prioritize all your maintenance projects?

Answer. A listing of our maintenance and improvement projects in priority has been included in the record.

Question. Could you tell us what are your top 5 projects and how much funding would they require?

Answer. The top 5 projects together with their costs are as follows:

1. Reset the walk by the Walls of the Missing at the Cambridge American Cemetery and Memorial. $ 30,000.00

2. Reset Walls of the Missing at the Cambridge American Cemetery and Memorial. $ 80,000.00

3. Repair the Memorial roof at the Aisne-Marne American Cemetery and Memorial. $ 40,000.00

4. Replace the transformer at the Meuse-Argonne American Cemetery and Memorial. $ 10,000.00

5. Rewire the Memorial at Lorraine American Cemetery and Memorial. $ 15,000.00

Total Cost: $175,000.00

PROCEDURES FOR ESTABLISHING A MEMORIAL

Question. Describe the process by which it is decided to build a memorial and the steps needed to be taken to accomplish this.

Answer. If the memorial is to be erected in other than the Nation's Capital or its environ, the following steps are taken:

1. Determine that the event is worthy of commemoration.

2. Decide the general form and scope of the memorial.

3. Obtain or prepare a design concept and estimate the cost of construction. If the cost is $25,000.00 or more, include it in the next appropriation request submitted to the Congress with justification.

4. Obtain approval of the design from the Commission of Fine Arts.

5. Prepare detailed drawings and specifications or have them prepared.

6. Award or have awarded a construction contract if funds are available.

7. Supervise or arrange for the construction to be supervised.

8. When the memorial has been completed, conduct a dedication ceremony.

If the memorial is to be built in the Nation's Capital, three additional steps must be taken. These are:

1. Request enactment of a law authorizing erection of the memorial in the Nation's Capital.

2. If you wish the memorial to be erected in the monumental core of the Nation's Capital (Mall area) or its environ, arrange for the Secretary of the Interior or the Administrator of General Services as appropriate to initiate legislation authorizing it.

3. Obtain approval of the design from the National Capital Planning Commission and the Secretary of the Interior or the Administrator of General Services, as appropriate.

QUESTIONS SUBMITTED BY SENATOR KERREY

CURRENCY FLUCTUATION LOSSES

Question. Of your increase, you indicate that $2 million is associated with anticipated currency exchange losses. How did you develop the $2 million figure? What is its basis?

Answer. The anticipated loss was determined by dividing the budgeted exchange rate for a particular currency into the total requirement for that currency and comparing it with the amount of the foreign currency that could be purchased for the same amount of dollars at the current exchange rate.

Question. What is the lowest point to which the fluctuation account has dropped?

Answer. The present balance, which is $808,145.42. At the start of this fiscal year, there was $1,369,536.26 in the account. During October through January, our currency exchange losses were $561,390.92. At this rate of loss, the account will be exhausted early in the 4th quarter.

SALARIES AND BENEFITS OF FOREIGN NATIONAL EMPLOYEES

Question. Please explain how salaries and benefits of foreign nationals are determined. Have efforts been made in recent years to hold down the costs of these employees?

Answer. The pay and benefits of Foreign Service National employees (FSN's) in each country are determined by surveys conducted by the U.S. Embassy concerned. The objective of these surveys is to ensure that FSN employees receive salaries and benefits when working for U.S. Government agencies similar to those that would be received on the local economy for the same work. This requirement is usually provided for in the country-to-country agreements. Additionally, we are required to comply with host country laws affecting pay and benefits, such as awarding cost of living increases to our FSN employees that are decreed for local citizens. Recently, the Embassy in Manila conducted a pay survey which resulted in a number of our positions there having their pay scales downgraded. It is our understanding that within these guidelines the Embassies do their best to keep salaries and benefits as low as possible.

Question. Do you have a project backlog? If so, what are the projects and what is the estimated cost?

Answer. A listing of our backlog of projects, including costs, has been incorporated in the record.

QUESTIONS SUBMITTED BY SENATOR GARN

BACKLOG OF MAINTENANCE AND IMPROVEMENT PROJECTS

Question. Last year you brought to this Committee's attention a maintenance and improvement backlog of $7 million. In this year's budget request you address this backlog. How much of the $2.54 million (16.5%) increase over last year is going to offset this maintenance and improvement backlog?

Answer. None. $2 million of the increase will be used to offset anticipated currency exchange losses and for no other purpose. The remainder will be used to defray anticipated pay increases.

CORREGIDOR MEMORIAL

Question. Last year you stated that the Commission was negotiating with the Philippine Government over the restoration work on the American Monument on Corregidor. What is the status of these negotiations and the monument?

Answer. The negotiations over the restoration work on Corregidor Island have stalled. However, the Philippine Bureau of Tourism in the meantime has expended considerable funds and effort in restoring the monument and other historical sites on the island. Consequently, it may no longer be necessary for us to assume responsibility for maintenance of the memorial and other sites to be preserved there.

KOREAN WAR VETERANS MEMORIAL

Question. We are aware that the Commission was concerned with the lack of response from private corporations to donate funds for the construction of the Korean War Memorial. Does the Commission anticipate receiving adequate funds from corporate sources to complete the memorial? We are concerned and want to ensure that you have adequate financing lined up this year since authority to establish a memorial expires in October of this year.

Answer. No sir. Presently, we have received approximately $8.9 million in contributions, appropriations and interest. Total anticipated requirement is $15 million. The Korean War Veterans Memorial Commemorative Coin legislation enacted recently should generate $5 million with a potential for $7 million. It would appear that we will not have either an approved design nor all the monies necessary to establish the memorial before the 5 year deadline expires. Consequently, we have asked OMB for permission to request legislation be enacted to extend the deadline an additional 2 years.

DEPARTMENT OF DEFENSE—CIVIL

ARMY CEMETERIAL EXPENSES

STATEMENT OF STEVEN DOLA, DEPUTY FOR MANAGEMENT AND BUDGET, OFFICE OF ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS

ACCOMPANIED BY:

JOHN C. METZLER, JR., SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY

RORY D. SMITH, BUDGET OFFICER, ARLINGTON NATIONAL CEMETERY

Senator MIKULSKI. We now want to hear from the administrative leadership of Arlington Cemetery, Messrs. Dola, Metzler, and Smith.

Mr. Metzler, I would like to welcome you on board as the new Superintendent at Arlington Cemetery. I look forward to working with you and your staff for several years to come.

Arlington Cemetery is an important resting place for America's heroes and we view it as one of America's treasures. We know that when people come from all over the world they often want to visit the Washington Monument, the Lincoln Monument, and Arlington Cemetery is a place not of tourism, but a place really where I think the world gathers to pay its respects. So we want to work with you in any way we can.

Mr. DOLA. Thank you very much, Madam Chair. Thank you for acknowledging the new Superintendent of Arlington National Cemetery. Certainly we want to thank you for those appropriate remarks regarding the place that Arlington National Cemetery holds in the hearts of all Americans.

If it is appropriate and permissible, I would like to summarize my statement, Madam Chair, and submit the full statement for the record.

Senator MIKULSKI. OK.

STATEMENT SUMMARIZED

Mr. DOLA. I do appreciate the opportunity to appear before the subcommittee to support the fiscal year 1992 appropriation request for cemeterial expenses, Department of the Army. With me today are, as you noted, on my left, Mr. John C. Metzler, the newly appointed Superintendent of Arlington National Cemetery, and, on my right, Mr. Rory Smith, Budget Officer, also from Arlington. We are appearing on behalf of the Secretary of the Army, who is responsible for the operation and maintenance of Arlington and Soldiers' and Airmen's Home National Cemeteries.

The funds requested will finance operations at both cemeteries. The request for fiscal year 1992 is $12,587,000 and would be used to support the work force, assure adequate maintenance of the buildings, acquire necessary supplies and equipment, and to repair damage done by rainwater leaks at the Memorial Amphitheater.

Arlington National Cemetery is, as you noted, this Nation's principal shrine to the men and women who served in the Armed Forces. In fiscal year 1990, there were 3,075 interments and 1,345 inurnments; 3,225 interments and 1,425 inurnments are estimated for fiscal year 1991; and 3,375 interments and 1,500 inurnments are estimated for fiscal year 1992.

Also, during fiscal year 1990, Arlington Cemetery accommodated over 4 million visitors, making it, as you have noted, one of the most visited historic sites in the National Capital region.

Approval of the fiscal year 1992 request will permit continuation of the high standards of maintenance expected at these cemeteries.

Madam Chair, this concludes my remarks. We will be pleased to attempt to respond to questions from the subcommittee.

Senator MIKULSKI. Thank you, Mr. Dola.

[The statement follows:]

STATEMENT OF STEVEN DOLA

Madam Chair and Members of the Subcommittee:

I appreciate the opportunity to appear before the subcommittee in support of the Fiscal Year 1992 appropriation request for Cemeterial Expenses, Department of the Army. With me today are Mr. John C. Metzler, Jr., Superintendent of Arlington National Cemetery, and Mr. Rory D. Smith, Budget Officer, also from Arlington National Cemetery. We are appearing on behalf of the Secretary of the Army, who is responsible for the operation and maintenance of Arlington and Soldiers' and Airmen's Home National Cemeteries.

Mr. Metzler became the Superintendent of Arlington on January 14, 1991; he previously was the Director of the National Cemetery Area Office, Northeast Region, Department of Veterans Affairs. Mr. Metzler replaces Mr. Raymond Costanzo, who recently retired after a 46 year career which began as a trainee in the national cemetery system. Mr. Costanzo served as head of Arlington National Cemetery since 1975.

I also would like to acknowledge the outstanding performance of the Deputy Superintendent, Mr. Thurman Higginbotham, for his service as Acting Superintendent for several months prior to Mr. Costanzo's retirement and prior to Mr. Metzler assuming his duties as Superintendent. The Department of the Army appreciates Mr. Higginbotham's dedication and his continuing contribution to Arlington National Cemetery.

The request for Fiscal Year 1992 is $12,587,000. The funds requested are sufficient to support the work force, to assure adequate maintenance of the buildings, and to acquire necessary supplies and equipment. The funds requested will finance operations at both cemeteries. Funding increases have been kept to a minimum and will provide adequate maintenance standards expected at these national shrines.

In Fiscal Year 1990, there were 3,075 interments and 1,345 inurnments; 3,225 interments and 1,425 inurnments are estimated in Fiscal Year 1991; and 3,375 interments and 1,500 inurnments are estimated in Fiscal Year 1992.

CEREMONIES

Arlington National Cemetery is this Nation's principal shrine to honor the men and women who served in the Armed Forces. It is a visible reflection of America's appreciation for those who have made the ultimate sacrifice to maintain our freedom. In addition to the thousands of funerals, with military honors, held there each year, hundreds of non-funeral ceremonies are conducted to honor those who rest in the cemetery. Thousands of visitors, both foreign and American, visit Arlington to participate in these events. During Fiscal Year 1990, about 1,900 ceremonies were conducted. Nineteen foreign heads of state participated in these ceremonies in 1990 and Vice President J. Danforth Quayle participated in Memorial Day services.

COLUMBARIUM

Inurnment activities in the Columbarium continue to increase. In 1980, the first year of operation, we had 657 inurnments. Because of the advanced age of our World War I and World War II Veterans, we are now averaging approximately 1,400 inurnments per year. A new 10,000 niche addition to the Columbarium is essentially complete.

VISITORS CENTER AND PARKING FACILITY

The Visitors Center and Parking Facility was opened on January 16, 1989. Parking fees are collected from visitors using this facility. Under the paid parking plan, $850,000 was returned to the United States Treasury in Calendar 1990 as set forth in the terms of the lease for management and operation of the facility. The renewal of that lease has been sent to and has been received by the lessee for another year at the same value.

During Fiscal Year 1990, Arlington National Cemetery accommodated over 4 million visitors, making Arlington one of the most visited historic sites in the National Capital Region.

The temporary Visitors Center building has been demolished and a contract to develop approximately 15 acres of land into 9,000 gravesites is under negotiation. It is anticipated that work will begin this March and be completed by November.

MAINTENANCE BUILDINGS

The new maintenance shops and warehouse requested in Fiscal Year 1991 is currently being designed and will replace buildings constructed in 1930. These were originally constructed as horse stables and converted to a cemetery maintenance facility in the late 1940s. They were not designed to house or service modern cemetery equipment; consequently, they are inadequate for those purposes. Moreover, the existing facility did not meet the current OSHA standards.

Construction of the new maintenance facility is forecast to begin in the spring of 1992; it will meet current building standards, and will be located so as to facilitate the efficient performance of the daily operations of the cemetery.

RAINWATER LEAKS

Last year during testimony we discussed a study in progress to repair rainwater leaks in the Memorial Amphitheater. That study is now complete and the cost estimate for final design and repair is $4,820,000. This renovation will take care of all water and moisture related problems that are causing accelerated deterioration of the marble cladding and damages to the interior finishes of the Amphitheater. The work includes replacing waterproofing membranes; cleaning, patching and repointing stonework; and limited marble replacement. Repairs are scheduled to begin in the fall of 1992 and be completed in late spring of 1994. As repairs proceed, it will be necessary to close some areas within the Memorial Amphitheater. Provisions will be made in the construction contract to ensure that Changing of the Guard ceremonies will continue. Also, appropriate agencies will be notified and the Cemetery has already begun planning alternate locations for ceremonies to minimize disruptions.

Approval of the Fiscal Year 1992 request will permit the Department of the Army to continue the high standards of maintenance Arlington National Cemetery deserves.

Madam Chair, this concludes my remarks. We will be pleased to respond to questions from the subcommittee.

FAMILY TRADITION NOTED

Senator MIKULSKI. Mr. Metzler, this is not a question, but really, as I understand it, your dad was also the Superintendent of Arlington; is that right?

Mr. METZLER. Yes, ma'am.

Senator MIKULSKI. What years was he Superintendent?

Mr. METZLER. From 1951 to 1972.

Senator MIKULSKI. Twenty years. I believe that is when Arlington probably experienced one of its expansions in terms of really reaching almost, if there is such a thing as, a secular shrine.

Mr. METZLER. I think after the burial of President Kennedy and the two Unknowns, Korea and World War II, the focus of the visiting public and the awakening of Arlington as a visitor's place really came alive, and the growth of the Cemetery, as you have stated, really took off at that point.

Senator MIKULSKI. Was this a dream of yours, to come back?

Mr. METZLER. It was an ambition for many years, yes ma'am, and I just never realized I would be able to attain it. But things work in funny ways.

Senator MIKULSKI. Well, with that kind of family tradition, we know that you are going to put a lot of heart and passion and energy into this.

Let me go over some of the numbers, though, because all the good intentions in the world cannot be implemented without good resources. So I want to go over a couple of the issues.

MAINTENANCE EXPENSES

I know one of the problems that has been discussed before the subcommittee is the issue of maintenance expenses, and we note that you have made an increase of $212,000 increase over last year. We also note that there are close to 2,000 nonfuneral events that you anticipate taking place in fiscal 1992. You need replacements for motor vehicles.

Is the $212,000 adequate to cover your expenses?

Mr. DOLA. We believe they are.

Senator MIKULSKI. That increase would take you to $12,587,000?

Mr. DOLA. Yes; the $12,587,000 amount is what we asked for, with the exception of $50,000 additional that OMB gave us to help with a portion of the annualized pay increase. So we do support and believe this is a good budget for Arlington National Cemetery, Madam Chair.

IMPACT OF OPERATION DESERT STORM

Senator MIKULSKI. This is a sad question, but do you anticipate any additional responsibility due to Operation Desert Storm?

Mr. DOLA. Madam Chair, I would answer it this way, that the numbers I cited in my opening remarks regarding the estimated projections do not take into account those possibilities. However, as Mr. Metzler can amplify, Arlington is prepared for any contingency that may arise.

Senator MIKULSKI. Do you want to comment on that, Mr. Metzler?

Mr. METZLER. Yes, ma'am. I do not think that we will have a big increase at the cemetery. Most of the young men and women who are serving overseas do not come from the Washington, DC, area.

However, if they do choose to be buried here at Arlington, we certainly can accommodate them. Our staff would be realigned and we would put all our assets and resources into the interment aspect of the cemetery. We would hold our office open to make those calls available on traditional nonduty hours, such as Saturday and Sunday and holidays, and, if necessary, we would go into a sixth- and a seventh-day operation for burial on weekends or holidays if the need requires that.

Senator MIKULSKI. Well, gentlemen, this budget appropriation that we are discussing will go into effect fiscal year October 1, 1991. We hope Desert Storm is over by then, and we hope that the same low level of casualties continues.

If in the course of our deliberations over the next several months, the need arises for additional funds, please do not hesitate to come up here at any time to talk to us.

Mr. METZLER. Yes, ma'am.

Senator MIKULSKI. You come right up here and talk to us.

Mr. DOLA. We will.

ADMINISTRATION

Senator MIKULSKI. Now, let us go to the administration. You are talking about a $97,000 request, an increase of $97,000 for administration, which is almost a 30 percent increase. Could you tell us what that is needed for and whether you regard this as adequate?

Mr. DOLA. There is a $97,000 increase in appropriations requested for the administration program over fiscal year 1991, and that is needed to reflect an anticipated obligations level of $430,000 in fiscal year 1992. Madam Chair, this is the same obligation level currently estimated for fiscal year 1991, when for the first time the full cost of finance and accounting support from the Military District of Washington is being funded under the administration, rather than the operation and maintenance program, as was done previously. This accounts for $54,000.

The balance of the $97,000 increase is due to pay-related costs associated with the administration function. That amounts to about $43,000 and is composed of a number of elements: $6,000 for within-grade increases, $23,000 for annualization of the 1990 and 1991 pay increases, and so forth.

Senator MIKULSKI. You have heard me talk to the other agencies today about our concern for them having adequate resources for 1992. Could you tell us what you anticipate in that area and whether you would have the resources to meet it?

Mr. DOLA. Well, Madam Chair, with regard to the budget for Arlington National Cemetery, the pay raise for 1992 is not reflected in the budget. So we have a similar situation.

Let me give an example with regard to the administration program. Because, as I have indicated, the obligations that we are budgeting in 1992 are the same as in 1991, there are certain increases that are not—modest increases, I might say—that are not reflected. They are on the order of 3 to 6 percent.

Our judgment at the moment is that as things develop, say in the administration program, it would be adequate, funds would be adequate to cover those. So we are hoping we can get through with the funds that have been budgeted.

Senator MIKULSKI. Well, here is the scoop. When I took over this subcommittee and talked to your predecessor, the issue of backlog and the issue of maintenance was a very severe one, and we have tried to address that. My concern is that if you have to make up a 4-percent raise and yet you have the responsibility, a sacred responsibility, at Arlington, we do not want it to be skimped and then get into this same problem, that something was leaking here and something was cracked here, but if we could have fixed then we could have saved. You know the domino theory of deferred maintenance because you took from one account for another.

IMPACT OF 4-PERCENT PAY RAISE

I am not saying we can meet the needs, but I would sure like to have all the needs accurately laid out on my spreadsheet. I know that you are being a good soldier here, but what do you anticipate a 4-percent pay raise costing the agency and where do you think you would get it from?

Mr. DOLA. Well, for the agency as a whole I understand that number would be $150,000, and that is quite a bit to swallow. But we anticipate that it could occur and we are going to try to live with that.

Senator MIKULSKI. How would you do it? Would you defer maintenance? Would you not fix the leak in the amphitheater?

Mr. DOLA. No; Madam Chair, I do want to make the following point, and I recognize what you are saying.

Senator MIKULSKI. These are friendly questions.

Mr. DOLA. Yes; I do, I really appreciate those. May I say, with regard to the excellent example that you mentioned, the rainwater leaks project, there is in our request $4.8 million, as you know, for that. There are also other projects that the Congress and this subcommittee have supported, for example, in 1991 the facility maintenance shop, to enable the Superintendent and his staff to do the kind of job that is needed. There is $4.8 million for that.

We are also proceeding with another project, a tourmobile shelter, beginning in March, to be finished in September. That is for $200,000. There is demolition and development of the old visitors center. The old building already is gone, thereby improving the appearance of the area, and development of the 15-acre site into 9,000 graves. That is another $1.8 million. Again, that will soon be underway and is to begin in March and be completed later this year in November.

There are major road repairs that have been funded.

Senator MIKULSKI. We understand that they have been funded.

Mr. DOLA. Yes.

Senator MIKULSKI. We have worked to fund them.

Mr. DOLA. Yes; you have, and I want to acknowledge the support and contribution of this committee, which is second to none in support for Arlington.

Senator MIKULSKI. Which goes to my point. Having funded them, I feel that we are right on track now with the maintenance, with doing some of the things that have been deferred, even some preventive techniques that you have just enumerated.

DEFERRED AND PREVENTATIVE MAINTENANCE

If you have to take $150,000 out for a pay raise, would not those fine efforts for maintenance, dealing with deferred maintenance as well as the preventive maintenance that are so important, that are so ultimately cost-saving, would any of those have to be jettisoned or deferred?

Mr. DOLA. None that we have been discussing. There might be some supplies that might have to be deferred and things such as that, but hopefully it would not be a great disadvantage.

I must say, Madam Chair, that if we did believe that it was a disadvantage, we would tell you so.

Senator MIKULSKI. I believe you.

HISTORICAL SOCIETY FOR ARLINGTON

I think my staff has met with you and we have got all the specific projects, and if we need more of that data we will contact you—but I have a general one related to the establishment of a historical society for Arlington. Its history is so rich, going back to Jefferson Davis, Robert E. Lee—I believe Arlington was Robert E. Lee's home, is this not correct—all the way through to now.

Has a historical society for Arlington been established?

Mr. DOLA. Madam Chair, I would like to respond in some detail to that question. A nonprofit corporation named the Arlington National Cemetery Historical Society was incorporated in the District of Columbia in April 1990. The Army, however, has not yet recognized that society as an organization that may operate on Arlington National Cemetery grounds.

While the Army supports, for the reasons that you mentioned, the concept of an historical society for Arlington, we have not reached a final decision regarding this particular organization. There are unresolved issues, primarily relating to fundraising activities, that we still must address.

I would say, Madam Chair, it is our strongly held policy that Arlington National Cemetery should not be associated with any private promotional strategies or money-raising endeavors. Arlington is a cherished national memorial, as you noted earlier, a shrine that honors those individuals who have made the ultimate sacrifice for our country.

We simply cannot risk diminishing Arlington National Cemetery's reputation by associating it with any private promotion, no matter how reputable the promotion sponsor.

With regard to the particular society that I mentioned, the society has apparently engaged in at least two fundraising endeavors. One plan involved the selling of a commemorative coin. The other offered a commemorative flag. We objected to both promotions because of the danger that the public could be misled to believe that Arlington National Cemetery itself sponsored the promotions.

Because of these fundraising activities, we are being very cautious about recognizing this particular society. But certainly, Madam Chair, because of the history, the rich history, the importance to the Nation, we are sympathetic and support the concept, but the concept has not yet been translated into reality.

Senator MIKULSKI. Well, that was well said and I think certainly follows congressional intent. I think the interest that the Congress has in an historical society is where a nonprofit can enhance the historical nature and so on. But I think the guidelines that you and the Department of Army are establishing certainly are quite congruent to what Congress would intend.

You said it aptly and I concur. It is a national shrine; it is not a theme park.

Mr. DOLA. Thank you, Madam Chair.

Senator MIKULSKI. We are not going to use theme park techniques for where our veterans are buried.

Are you writing that down?

Mr. DOLA. Yes—I feel that others who are very concerned with this issue in the Army, the notion that it is not a theme park, or anything that comes close to it——

Senator MIKULSKI. You can quote me on it.

Mr. DOLA [continuing]. We certainly appreciate that support.

Senator MIKULSKI. I think that really covers my questions. You have given a very good overview. The specific items are those that we have reviewed. I think we have talked about some of the specific projects, like the rainwater leak at the amphitheater, and I know that you are taking a lot of corrective action.

Is there anything else that you want to say?

Mr. DOLA. No; I think that covers it, Madam Chair, and I want to thank you.

Senator MIKULSKI. Mr. Metzler?

Mr. METZLER. No; I am just very excited to be here and I look forward to working with your committee.

Senator MIKULSKI. You look like you cannot wait to get out and do your job every day.

Mr. METZLER. Yes, ma'am.

Senator MIKULSKI. That is great.

Thank you very much and we look forward to further conversations.

Mr. **Dola**. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator **Mikulski**. We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

MAINTENANCE FACILITY

Question. Last year a new maintenance facility was mentioned. What is the status of this project?

Answer. The design contract for the new maintenance facility will be initiated in April 1991, construction will begin in the spring of 1992, and construction will be complete in the spring of 1994.

MASTER PLAN PROJECTS

Question. Of your 28 projects, the Custis Walk and Project 1990 are the 2 projects that have yet to be funded. What is the status of these 2 projects and how much would be needed to complete both?

Answer. The two remaining projects that have not been funded or partially funded are the Land Development Project 90 and the Replacement of the Custis Walk.

Land Development Project 90 is the final 52 acres of land in the cemetery for burial purposes. This development, providing 31,000 gravesites, will include construction of new roads, paving, curbing, a new drainage system, installation of a potable and non-potable water distribution system, 1,500 feet of ornamental boundary wall and wrought iron fencing, fine grading and topsoiling, establishment of turf, and landscaping. This project is scheduled for completion in 1996, provided funds are available in the amount of $285,000 to start concept design in FY 1993, $285,000 to start final design in FY 1994 and construction in FY 1995. A tentative forecast of the total cost of this project, which is subject to change during the design phases, is addressed at this time by ranges. The total cost is currently estimated to range from $8 to $10 million.

The Replacement Custis Walk Project will consist of removing and replacing 2,000 feet of existing deteriorating bluestone walk and retaining cheek wall constructed in the late 1870's. The replacement with new flagstone and concrete retaining cheek wall will be compatible with the new walkway system throughout the cemetery. The walkway is heavily used by visitors due to its location near the gravesites of President's Taft and Kennedy, Civil Rights Leader Medgar Evers, and General of the Army Omar Bradley. This project is scheduled for completion in late 1995, provided funds are available in the amount of $100,000 to start concept design in FY 1993, $105,000 to start final design in FY 1994, and construction in FY 1995. Again, a tentative forecast, which is subject to change during the design phases, is addressed at this time by ranges. The total cost is currently estimated to range from $1 to $1.5 million.

QUESTIONS SUBMITTED BY SENATOR GARN

HIRING FREEZE

Question. Since the hiring freeze at DOD, you are required to apply for exceptions to hire needed staff. Is DOD approving the personnel exceptions you request?

Answer. Arlington National Cemetery was exempted from the hiring freeze on 23 February 1990.

COLUMBARIUM

Question. Members of the committee staff recently visited Arlington and were told that there are still some finishing touches which need to be completed on the Columbarium. Will the cemetery realize any additional expenditures for this project which are above and beyond the appropriation received for the project?

Answer. The construction of the Columbarium is essentially complete; there is, however, some landscaping to be done in the spring when favorable weather is upon us. We do not expect any additional expenditures for this project which are above and beyond the appropriated amount.

PARKING FACILITY RETURN ON INVESTMENT

Question. I am somewhat concerned about an issue that has been raised with respect to the operation of the parking garage at Arlington. While I support contracting-out to private vendors in cases where it makes programmatic and financial sense, I am wondering if the taxpayers would be better off if the government directly managed the parking facility. It appears, from very preliminary data, that the contract for operation of the parking facility is not yielding the government a reasonable return on its operations. Have you reviewed this contract to assure that the Government's interests are being adequately protected?

Answer. Yes, we had it reviewed last spring, following completion of hearings on the Fiscal Year 1991 budget. The review was conducted by Dr. Leonard Shabman, Professor of Agricultural Economics at the Virginia Polytechnic Institute and State University and a consultant to the Assistant Secretary of the Army (Civil Works).

Dr. Shabman found that the current bidding and lease process seems to be an effective and fair way to manage the parking facility, and, in order to assure that this remained the case over time, he recommended two things be done in anticipation of the next bidding process, expected in 1994, namely that:

1. A review of the parking fee schedule should be conducted to assure that the parking fees currently being charged are consistent with other area facilities; and

2. Improvements be made in the basis for traffic count estimates to assure effectiveness and fairness of bidding. (The current lease requires the vendor to provide monthly traffic counts; however, in order that the government provide the most accurate traffic count

to all prospective bidders, independent estimates of traffic are essential to assure effectiveness and fairness of bidding).

The Superintendent of Arlington National Cemetery concurred in and is pursuing implementation of both recommendations.

The paid parking concept at Arlington National Cemetery, it should be noted, started in early 1989. Upon completion of the first nine months of lease operation, we called for and received from the private sector bids ranging from a low of $440,000 to a high of $850,000; and a contract was entered into with the current vendor. The second year of the current lease operation recently ended. The first two years of lease operation have yielded more funds to the Government than were originally anticipated.

PARKING FACILITY GROSS FEE REVENUE

Question. Do you have an estimate of the gross fee revenue of the parking facility?

Answer. Yes, we have an unaudited estimate of the gross fee revenue, which was recently provided by the contractor to the Baltimore District Corp of Engineers, for approximately $932,000. It should be noted that the contract does not require the contractor to provide such information. Additionally, the operator also has provided an unaudited count of the number of cars and buses that came to the facility during Calender 1990, which were approximately 254,000 cars and 22,000 buses.

PARKING FACILITY CONTRACTOR'S COST

Question. Do you have an estimate of the overhead which the contractor realizes? What does this include (e.g., maintenance on the facility, personnel, insurance, security, etc.)

Answer. We do not have an estimate of the contractor's overhead. The contractor's total estimated cost for Calender 1990 was approximately $257,000. This is an estimate provided by the contractor to the Corps of Engineers and has not been audited by the government. It should be noted that the contractor is not required to provide such information, he is only required to make payments that are stated in the contract.

PARKING FACILITY CONTRACTING ADVANTAGE

Question. What is the advantage for contracting for the management of the garage?

Answer. Our evaluation of contracting concluded that the service could be provided more efficiently and at less cost to the Government than if the Government ran the facility. All the bidders already operate parking facilities in the capital region. Therefore, they are experienced in providing this service. Also, many of the overhead costs such as accounting services, insurance, etc., can be distributed across their several operations. This combination of expertise and ability to spread costs over several facilities is not available to the Government and assures that there are cost savings over what the Government costs would be. The competitive bidding process assures that the benefits from these cost savings are realized in part by the Government.

PARKING FACILITY STAFFING REQUIREMENTS

Question. How many additional FTEE would be required to staff the garage?

Answer. We are not certain, as we have had no experience in this area. However, our best judgement now is that the probable requirement would be about 10 additional FTEE.

FACILITY MAINTENANCE SHOPS OBLIGATION

Question. Last year we appropriated money for the construction of new maintenance shops and a new warehouse. Has the money been obligated to the Army Corps of Engineers as planned? ($4.778 million for the project)

Answer. Yes, the $4.778 million has been obligated to the Army Corps of Engineers as planned.

FACILITY MAINTENANCE CONTRACT AWARD

Question. Has this contract for the new maintenance shops and warehouse been awarded? When can we expect construction to begin?

Answer. The new maintenance shops and warehouse is currently being designed, and the contract for construction will be awarded upon completion of design. Construction is forecast to begin in the spring of 1992.

EQUIPMENT PURCHASES

Question. This committee provided funds requested in FY 1991 for the procurement of a tow truck, backhoe, hearse, two five-ton trucks, and two replacement tractors. Has this equipment been procured?

Answer. All of those equipment items except for the tow truck have been ordered. We have reviewed the condition of the tow truck and deferred its replacement. The funds requested for the procurement of the tow truck are now earmarked to cover increased cost of the tractors and an automobile analyzer. Additionally, other high priority equipment needs have been identified such as a headstone washer, snow plow, tool sets, generator, snow thrower, backpack blower and grass trimmers.

CONSTRUCTION START FOR RAINWATER LEAKS REPAIR

Question. Assuming we approve your FY 1992 request for $4.82 million to repair rainwater damage to the amphitheater, when are you planning to begin construction?

Answer. Construction should begin in the fall of 1992.

DISRUPTIONS CAUSED BY RAINWATER LEAKS REPAIR

Question. How long will the amphitheater project take and is it expected to disrupt visitor activities in that area of the cemetery?

Answer. Repairs are scheduled to begin in the fall of 1992 and be completed in late spring of 1994. As repairs proceed, it will be necessary to close some areas within the Memorial Amphitheater. Provisions will be made to ensure that Changing of the Guard ceremonies will continue. Other appropriate agencies will be notified and alternate locations for ceremonies will be made available to minimize disruptions.

REMAINING MASTER PLAN PROJECTS

Question. What is the status of the two projects in the 1967 Master Plan which have yet to be completed?

Answer. The two remaining projects that have not been funded or partially funded are the Land Development Project 90 and the Replacement of the Custis Walk.

Land Development Project 90 is the final 52 acres of land in the cemetery for burial purposes. This development, providing 31,000 gravesites, will include construction of new roads, paving, curbing, a new drainage system, installation of a potable and non-potable water distribution system, 1,500 feet of ornamental boundary wall and wrought iron fencing, fine grading and topsoiling, establishment of turf, and landscaping. This project is scheduled for completion in 1996, provided funds are available in the amount of $285,000 to start concept design in FY 1993, $285,000 to start final design in FY 1994 and construction in FY 1995. A tentative forecast of the total cost of this project, which is subject to change during the design phases, is addressed at this time by ranges. The total cost is currently estimated to range from $8 to $10 million.

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TOMB CRACK PROBLEM

Question. Are there any ongoing problems with the crack in the Tomb of the Unknown Soldier?

Answer. A study on the Tomb Crack has been completed, and we made the necessary remedial repairs. The crack did not permeate the entire stone, and the engineers are confident that there is no serious problem. We will establish a program to monitor the crack and clean the stone annually.

TOMB CRACK PROBLEM REPLACEMENT COST ESTIMATE

Question. Should we need to replace the memorial over the Tomb of the Unknown Soldier would you have an estimate of the replacement cost?

Answer. We do not have an estimate at this time for replacement of the memorial over the Tomb of the Unknown Soldier.

NEIGHBORHOOD REINVESTMENT CORPORATION

STATEMENT OF GEORGE KNIGHT, ACTING EXECUTIVE DIRECTOR

ACCOMPANIED BY:

MARGO KELLY, DEPUTY DIRECTOR FOR FIELD OPERATIONS

ROY T. DAVIS, DIRECTOR, FINANCE AND MANAGEMENT INFORMATION SYSTEMS

MARY WIDENER, PRESIDENT, NEIGHBORHOOD HOUSING SERVICES OF AMERICA

NAT GRANT, DIRECTOR, PERSONNEL AND ADMINISTRATION

JEFFERY BRYSON, ACTING GENERAL COUNSEL

Senator MIKULSKI. Next we are going to hear from Mr. George Knight, the Acting Executive Director of the Neighborhood Reinvestment Corporation. This Corporation was created by Congress in 1978 to help generate affordable housing for low- and moderate-income families through a network of neighborhood-based operations.

Since then, Neighborhood Reinvestment has expanded into 290 neighborhoods through 160 distinct NeighborWorks organizations, as it is called.

We have a number of questions on the agency's 1992 request.

But Mr. Knight, why do you not go ahead and proceed.

STATEMENT SUMMARIZED

Mr. KNIGHT. Thank you. Madam Chair and members of the committee, thank you for the confidence that this subcommittee has expressed in the Neighborhood Reinvestment Corporation and in the 160 local organizations, including neighborhood housing services and mutual housing associations which comprise the NeighborWorks network.

I am delighted to come to you this year with our entire request as a direct appropriation and appreciate the subcommittee's finding an additional $7.6 million over our $17.9 million fiscal year 1991 request. As you know, Bill Whiteside, the founding Executive Director of Neighborhood Reinvestment, retired last July. I am serving as the Acting Executive Director until a permanent replacement is named by the Board of Directors.

THREE CONCERNS

The budget presented seeks to balance three concerns: first, expanded and enhanced local program operating capacity; second, expanded local program equity dollars; and third, expanded secondary market capability.

Since August, I have sought to support the thriving NeighborWorks network by tackling some systematic issues: one, simplifying and clarifying our administrative grant procedures; two, instituting a functional accounting and reporting system of which this year's budget presentation is but one product; and three, seeking to reduce the turnover and loss of local program executive directors.

I would like to point out——

Senator **MIKULSKI**. Where is all this written down, Mr. Knight?

Mr. **KNIGHT**. I am sorry; I am summarizing the statement.

Senator **MIKULSKI**. But where are those points that you are just making?

Mr. **KNIGHT**. The three areas of expansion are scattered throughout the budget. I am attempting to summarize what you will find scattered from pages 4 through 6 of my submitted statement that deals with the need to expand the local programs' capacities, enhance local operating equity funds, and provide greater resources for the secondary market.

I would like to point out that, of the $145 million that has flowed through the neighborhood housing services and mutual housing associations in 1990, the catalyst to that is the $21 million in loans made from the program revolving loan funds. This is a very special fund that reaches lower income families. To provide detail on the clients: 53 percent of the median income is the typical borrower's income; 50 percent of the borrowers are female; and 33 percent are elderly.

Finally, programmatically, I would like to point out that we have initiated a statewide venture in West Virginia to serve the needs of rural and small town areas, and we hope to learn from this activity ways to serve other States.

Senator **MIKULSKI**. There is no way I can follow what you are saying, Mr. Knight. With all due respect, sir, I cannot. There are things that you are saying that I cannot follow. I appreciate your desire to summarize, but you are now summarizing where I cannot follow what it is you want to do. I have to listen to you rather than listen and follow it and make notes.

So I am now really lost. I do not know what it is you want to do. I do not know what it is you want to correct. You are talking about a project that is not even mentioned.

Mr. **KNIGHT**. I wanted to give you a brief summary of a very thick document.

Senator **MIKULSKI**. But your testimony is six pages.

Mr. **KNIGHT**. That is correct. I would like to enter it for the record, and if you would like me to go over it I would be delighted.

In the testimony on page 2, you will find who we serve. The revolving loan funds serve family incomes of 53 percent of median. The borrowers are 50 percent female; 33 percent of them are older than 55 years old.

Of the population in the NeighborWorks neighborhoods, 42 percent is African-American; 22 percent is Spanish-speaking; and 5 percent other minorities.

REVOLVING LOAN FUNDS

On page 3 I would point out to you that through NHSA we have been able to basically triple the purchases from the revolving loan funds from 1989 to 1991. We have been able to expand the mutual housing association network in terms of occupied units from about

250 units to 1,500 units.The revolving loan funds in 1991 will make about $22 million worth of loans.

For the first time in fiscal year 1991, the secondary market will purchase some multifamily loans to assist NHS's in dealing with the smaller multifamily buildings.

On page 5, I point out the impact of the coming recession in terms of the difficulty of raising funds and the increased demand for services. The NHS's are small organizations. On average, they only have about five staff people and an operating budget of $170,000. Neighborhood Reinvestment will need to focus a lot of our capacity-building dollars and staff time in this area.

Highlighted at the bottom of page 5 is the tremendous number of resources that have become available through the affordable housing program and through local financial institutions' participation with NHS's.

Finally, on page 6 I summarized that our efforts in fiscal year 1992 will focus on building local capacity, increasing local equity capital, and increasing NHSA's capacity to meet local demand.

INTRODUCTION OF ASSOCIATES

With that, I would like to introduce, on my left, Jeff Bryson, who is our Acting General Counsel; Nat Grant, Director of Administration and Personnel; Mary Lee Widner, who serves as the President of NHSA; on my right, Margo Kelly, Deputy Director of our Field Operations Division; and Roy Davis, Director, Finance and Management Information Systems.

I am sorry for confusing you by moving through it rather rapidly. I sought to save your time.

[The statement follows:]

STATEMENT OF GEORGE KNIGHT

Madame Chair and Members of the Committee, thank you for the confidence this committee expressed last year in the Neighborhood Reinvestment Corporation and the 160 local organizations in the NeighborWorks network. As you know, Bill Whiteside, the Corporation's executive director since its creation in 1978, retired last July. I am serving as the acting executive director until the Board of Directors names a permanent successor.

Neighborhood Reinvestment's purpose is to create resident-directed, private-public partnerships which revitalize deteriorated and distressed neighborhoods. Neighborhood Reinvestment achieves this by:

1. Creating new local partnerships and expanding existing partnerships to be the most effective organizations that local resources—financial and human—will support;
2. Conserving and preserving the stock of affordable housing through housing rehabilitation, increased homeownership, and the wider provision of quality rental units;
3. Regularly training local board volunteers and staff members so they can effectively manage their local organizations; and
4. Supporting and expanding the NeighborWorks secondary market operated by Neighborhood Housing Services of America (NHSA). The secondary market helps meet the liquidity needs of the locally managed, flexible revolving loan funds. To the extent that resources allow, NHSA provides first-mortgage and multifamily lending capital not supplied by local conventional and public sources.

Because of this committee's support, Neighborhood Reinvestment's efforts in 1990 benefited thousands of neighborhood residents, including those who reside in the 7,800 homes rehabilitated or built by the efforts of local Neighborhood Housing Services (NHSs), Mutual Housing Associations, Apartment Improvement programs, and other NeighborWorks organizations. That level of rehabilitation and construction activity reached a total of $130 million in direct reinvestment.

Who is being served by the NeighborWorks network?

1. Of the 1 million households in the 290 neighborhoods served by the network, 38 percent are owner-occupied.

2. The average revolving loan fund borrower has a family income of $18,100, 53 percent of the national median family income. Fifty percent of the borrowers are female. Thirty-three percent of all RLF borrowers were 55 years or older; the comparable conventional figure is 5 percent.

3. Of the neighborhoods served, 82 percent have median family incomes below 80 percent of the metropolitan area median.

4. Of the population in NeighborWorks neighborhoods, 42 percent is African-American, 22 percent is Spanish-speaking and 5 percent is other minorities.

These are challenging neighborhoods. NeighborWorks organizations are governed by 3,300 volunteer board members and employ 900 skilled local staff. The neighborhood resident leadership, however, is the driving force combatting deterioration, disinterest and disinvestment.

The impact of Congressional resources is being felt in NeighborWorks neighborhoods in a number of significant ways:

1. Annual purchases of local revolving loan fund loans by NHSA will have tripled from $5 million in fiscal year 1989 to $15.4 million by the close of fiscal year 1991

2. Neighborhood Housing Services are being developed in two new states and seven new cities; Mutual Housing Associations are being developed in four new cities;

3. Since fiscal year 1989, a special homeownership initiative has produced over 500 new homeowners. Almost all are first-time owners with incomes between 50 percent and 80 percent of the median.

4. Occupied mutual housing units are increasing rapidly, growing from 250 in fiscal year 1989 to nearly 1,500 by the close of fiscal year 1991;

5. The local revolving loan funds continue their steady growth. In fiscal year 1991 they will supply approximately 1,900 loans worth $22,000,000. More important, for every one revolving loan dollar, the local program generates and directs the investment of another six dollars;

6. For the first time, in fiscal year 1991 NHSA is offering to purchase loans on multi-family properties made by NeighborWorks programs. This results from a security placement with the Lutheran pension fund (and because Neighborhood Reinvestment was able to grant the required reserve funds).

This increase in local activity, without an increase in Neighborhood Reinvestment staff, is possible because the carefully interrelated set of institutions—the local NeighborWorks organizations, Neighborhood Reinvestment and NHSA has the capacity to absorb increased funds. The systems are in place. The procedures are down. The local demand exceeds the available resources. These interrelated, mutually supportive institutions facilitate the volunteer efforts of individuals, the voluntary investment of private enterprises, and the involvement of public entities.

In FY 1991, Neighborhood Reinvestment will continue to focus its efforts on building the capacity of the local organizations and NHSA. Part of local capacity-building is finding ways to retain talented local staff. We have launched an initiative to address the continuing high rate of loss of talented executive directors.

By maintaining our staff at a constant level and restraining administrative costs, we have generated a modest increase in grant funds for local programs in fiscal year 1991. This has increased the equity capital grants we've made to help local programs increase lending, invest in multi-family properties, and access the private sector's lending capacity.

Looking forward to FY 1992, I am excited by the opportunities ahead, yet sobered by the stresses that the slowed economy will place on local NeighborWorks programs.

The stresses will primarily take two forms: (1) increased difficulty in raising operating funds, and (2) increased demand for services such as financial counseling, lending, and rehabilitation specification writing. The typical NeighborWorks program has a staff of only five people and an annual operating budget of $170,000. We will focus much of our capacity-building efforts on assisting local organizations with fund-raising strategies and increasing their financial management proficiency.

In the area of direct services, I would anticipate increased demands on the local revolving loan funds. This in turn will increase the pressure on NHSA's secondary market to provide liquidity. The need for reserve funds to secure social investments for the secondary market will exceed our capacity to supply them; so our challenge in fiscal year 1991 will be to locate additional reserve fund dollars. Demand indicates that a near doubling of NHSA purchasing capacity to $28 million annually by the end of fiscal year 1992 could be absorbed.

The opportunities for more local lending are manifold. Many lenders are increasing their commitment. In Lawrence, MA, Chicago, IL, Des Moines, IA, Pasadena, CA and scores of other cities, local lenders have invested in local revolving loan funds or placed lending resources at the discretion of the NHS. The growth of local lending agreements during the past three years has been dramatic.

The availability of lower-cost capital through the Federal Home Loan Banks' Affordable Housing Program (AHP) is another opportunity. Nearly two-thirds of the local NeighborWorks organizations using the Affordable Housing Program are focusing their efforts on homeownership for lower-income buyers, and NHSA will provide local partnerships in 40 cities with lower-cost first-mortgage money.

The availability of foreclosed real estate has assisted both Mutual Housing Associations and local Neighborhood Housing Services rental programs to significantly increase their units. Some of these units are being used to increase homeownership. We anticipate these trends continuing through fiscal year 1992.

We also anticipate increased interest in Neighborhood Housing Services by rural and suburban locations. A couple of programs have already expanded into their suburbs.

In our FY 1992 budget justification, Neighborhood Reinvestment has sought a balance among building local capacity, increasing local equity capital, and increasing NHSA's capacity to meet local demand. We continue to achieve high levels of productivity. With your help, I look forward to nurturing greater accomplishments in the future.

Thank you for your attention, support and encouragement.

Senator MIKULSKI. Thank you, Mr. Knight. You have got a big job and I know that it is very hard to be an Acting Director and that these are certainly tough times for the poor and very tough times to find opportunities to house the poor. That is why we wanted to be sure we heard your testimony clearly.

The other is I note that, also for the first time in several years, the President has encouraged an increase in the Neighborhood Reinvestment.

Mr. KNIGHT. That is correct.

Senator MIKULSKI. Mr. Knight, I am going to ask some tough questions, and I will tell you why. Know that I have respect for you and know that you are in a difficult situation while you are trying very hard to do a good job in an acting capacity.

CHAIRMAN VOICES CONCERNS

But I can tell you, one of the really disappointing things of chairing this subcommittee is Neighborhood Reinvestment Corporation. I came to this subcommittee chairmanship with a really great feeling for this organization and knowing its history, knowing who the founding fathers and mothers were back in 1978, and this was an agency that I really looked forward to working with.

Quite frankly, it has been my observation that its performance does not match its press, and I am very concerned about the state of Neighborhood Reinvestment Corporation. Therefore, my questions are going to go to management, staff, personnel, and so on, because I believe in the mission of this agency and, probably because of the very nature it has been structured, it is meant to be innovative, creative, flexible, without the big, cumbersome bureaucracies of a HUD or even a local housing authority, and knowing it will work, even in my own hometown what NHS's have meant.

So know my feeling for the agency itself. But we have put more money into this, into Neighborhood Reinvestment. We have had to fight for that money, and really even within this subcommittee, and then to come to a situation where we find ourselves, I am disturbed. So let me go through with these questions, and know that they are being asked in the spirit of revitalizing Neighborhood Reinvestment, because I believe in the last 18 months it has really taken a spill in the cinders. You might disagree with me, and in the spirit of cooperation feel free to disagree with me. This is not a spring hazing and so on. OK?

Mr. KNIGHT. OK; thank you. We appreciate your past support.

Senator MIKULSKI. This is meant to be candid and really get to what is needed to serve the needs of the poor and this population that you articulated in your testimony, a population of great need and at great risk, and probably who have sons and daughters in Desert Storm.

Mr. KNIGHT. We do; we also have employees.

Senator MIKULSKI. Do you?

Now, you have been the Acting Director for about 6 months.

Mr. KNIGHT. That is correct.

Senator MIKULSKI. When do you expect that the Corporation will select a new permanent Executive Director?

Mr. KNIGHT. The Board of Directors is meeting tomorrow and, at that time, they may select the Executive Director. I cannot fully speak for the Board on this matter. It has been a process which they have handled, of course, completely themselves.

Senator MIKULSKI. Do they know that there is a sense of urgency?

Do you feel a sense of urgency about the need for a permanent appointment, Mr. Knight?

Mr. KNIGHT. Yes; I do, and I believe the Board does as well. This has been a matter of active concern and work on their part since last August.

THREE BIGGEST CHALLENGES FOR NEW DIRECTOR

Senator MIKULSKI. What do you think the three biggest challenges of the new Executive Director would be, should it be you or someone else? You have had a chance to really dig into this.

Mr. KNIGHT. First, we are not an experiment any more, as you pointed out. We are an organization that has been around for a while. Most of the NHS's are no longer experiments. They are established institutions in their town.

In terms of the three biggest challenges, I need to change the mode of Neighborhood Reinvestment's relations with some of the programs—more to a tough love kind of approach. We need to press them hard on the productivity side and, at the same time, hold them to high standards of financial management, while also providing them with the resources, both the conceptual, the human, and financial to the extent we can. I think that is a very tough challenge for us.

Senator MIKULSKI. You want to bring tough love to the neighborhood housing services?

Mr. KNIGHT. Yes; in the relationship between neighborhood housing services and Neighborhood Reinvestment.

Senator MIKULSKI. You will not get an argument with me. When I was getting my master's degree in social work, my supervisor told me I did not have a therapeutic personality, and it is because I believed in the tough love, which is exactly why we are having this kind of conversation.

Go ahead.

Mr. KNIGHT. Second, there are a number of areas that we need to figure out how to serve. As I started to mention, in West Virginia we are tackling a statewide approach. This will be different in that we are setting up an organization that, in effect, will serve in some places to support an existing local organization, a local community development organization, or a local city government. In other places in West Virginia where there is no local organization, they will need to do the work themselves.

We need to figure out how to serve the very scattered rural, smalltown communities, and I think that is a challenge for us.

The third challenge is increasing the flexibility of the secondary market, and increasing its ability to deliver and support the local programs. It has done a phenomenal job for an institution that nobody expected to work 15 years ago. It really has done a phenomenal job, but there is so much more that needs to be done.

MULTIFAMILY EFFORT

I mentioned briefly the multifamily effort. It is very difficult, as you perhaps know, Senator, to deal with the 12 to 20-unit buildings. Who will finance them? If they finance them, who will accept that mortgage? I think that those are the kinds of challenges the secondary market must confront. It is a matter of moving into these areas over the next couple of years.

Senator MIKULSKI. Mr. Knight, these are programmatic challenges.

Mr. KNIGHT. Yes; they are.

MANAGEMENT CHALLENGES

Senator MIKULSKI. All would be absolutely crucial to fulfilling the mission and meeting contemporary needs. What do you think would be the three biggest management challenges facing the Executive Director?

Mr. KNIGHT. First, to continue to support and build on the tremendously talented and diverse staff that Neighborhood Reinvestment has had the pleasure to recruit over the years. We have an incredibly talented and capable staff and hanging on, supporting, and refining their skills, remains a constant challenge for whomever is selected as Executive Director.

They are staff who have worked out of loyalty and dedication to this field and this mission, as much out of loyalty and dedication to Neighborhood Reinvestment.

I am not sure I can come up with three heavy administrative challenges. Thanks to the efforts of Roy Davis and Nat Grant and a lot of our staff, administratively we were quite strong. As I mentioned to you, we have already undertaken a clarification and simplification of our grant process which I think obviously needs to be carried out. It probably has another 6 or 9 months of work, but it will be very solid.

Obviously there are several key positions vacant in the organization—a deputy director, a director of field operations—who will need to be hired.

STAFF TURNOVER

Senator **Mikulski**. Well, Mr. Knight, I am very much concerned about the staff turnover. I am concerned about why people left, what were the systemic issues related to that, and how that can be addressed in the future. From your budget justification and what I know even from street talk in housing circles, you have lost a significant number of your field managers and your senior corporate officers.

Mr. **Knight**. That is correct.

Senator **Mikulski**. When I say "you" I mean the agency.

Mr. **Knight**. That is correct.

Senator **Mikulski**. The agency also notes that one-third of your current NeighborWorks executive directors, the ones that I will call at curbstone level, have less than 2 years' experience on the job.

Mr. **Knight**. That is correct.

Senator **Mikulski**. Also in that is a relatively high turnover, which means that there is not the stability, because capacity building with indigenous leadership takes time, it takes relationship. So you need people at the top and you need people right at the street level who really know what they are doing and can sustain. Capacity building is not an event; it takes place over time.

Mr. **Knight**. I could not agree more.

Senator **Mikulski**. So could you tell me what caused this rate of turnover and how could we prevent that in the future?

Mr. **Knight**. Regarding the district directors, we now have nine district directors which is the full complement of district directors. I am very excited about the new individuals that have joined the organization in the last 6 months. They are very competent, strong leaders. They joined the existing staff who are very competent. I am very excited about that.

We do need to employ a deputy director and a director of field operations. That process will begin once a permanent executive director is named.

Our turnover rate in terms of staff was very high. It is now less than 3 percent. I think the sense of mission, a sense of direction has helped, and I think that hiring, frankly, new strong district directors has helped our field staff to stay in place.

Regarding the local program turnover, I am very concerned about this area. It was one of the first things I tackled when I was appointed Acting Executive Director. This is not only characteristic of neighborhood housing services programs, this is also true of community development corporations and community organizations all across this country.

I immediately initiated discussions with other national intermediaries—LISC, Enterprise, DTI, La Raza—and we have begun to discuss this issue. Their experience is very parallel to ours. A certain cadre of people like this work—typically we find 30 percent of our directors have been around 6 years or longer and 32 percent 2 years or less. You are very right, this strains capacity building and production.

We have formed a small task force at this national level to tackle what may seem like a backburner issue—pensions. But it is really the first time that all of us in the field have begun to talk together and work to find some field-related solutions to reduce this turnover.

This is something about which Neighborhood Reinvestment is greatly concerned. Tom Adams, who is also a Deputy Director of Field Operations, is undertaking a special project to address this issue. First to find out data, to track some of it, and then to come up with some experimental ways to see what we can do to reduce the turnover.

It probably will not surprise you, but 15 percent of our programs offer no health benefits to their executive directors. Also, 85 percent of them offer no pension benefits. The average salary is about $32,000 which is not bad in some places, but is woefully inadequate in many others.

So I am very concerned about this and see this as a major task.

Senator MIKULSKI. So if somebody is an organizer, manager of a neighborhood housing services program—I will use the term "executive director"; I am not sure what the technical term is—whether you are Enterprise or IAF, kind of a cousin agency——

Mr. KNIGHT. Right, right.

Senator MIKULSKI [continuing]. There are no benefits. Many of your organizers would be in the age group, some of the very good ones are in their thirties to forties. They came out of the spirit and idealism of the seventies and even the late sixties, but mostly the seventies. Now they have got to think about themselves and mortgages and so on; am I correct?

Mr. KNIGHT. That is exactly correct. These are small organizations. As I said, five staff people is typical. They are handling everything. They are handling the fundraising, a lot of the heavy production activities, the board of directors, the politics, the whole works. There is typically not a strong deputy assisting them because the staff are project focused.

When these individuals begin to hit their thirties, children, spouses, and other concerns become an issue. They find a need to find more stable employment that assures a steady paycheck, health benefits, and pension.

STAFF PENSION AND HEALTH STATUS

Senator MIKULSKI. Well, for the people at the national staff, just to be clear, what is their pension and health status?

Mr. KNIGHT. Neighborhood Reinvestment, as do most of the national intermediaries, contribute to the problem because we offer a pension plan, health benefits, and we pay a salary that is typically slightly higher than one would receive as an executive director in a medium-sized city.

Senator MIKULSKI. You all could probably form some type of national alliance and do a group package. For example, pensions—and not to get into pension planning and so on in this conversation—but 401(k)'s are portable.

Mr. KNIGHT. That is correct.

Senator MIKULSKI. I am not saying revolving door, but the same people might move to another agency. There could be people who might get specific training working for Neighborhood Reinvestment and then move to head up a development corporation in a Hispanic neighborhood, which is exactly what you want—you need some people to spin off.

Mr. KNIGHT. Right.

Senator MIKULSKI. You want them to grow as local leaders. You want them to maybe even grow up and head up a local housing authority or run for political office.

Mr. KNIGHT. That is correct.

Senator MIKULSKI. But actually, if you are all facing the same problem——

Mr. KNIGHT. We are.

Senator MIKULSKI. Which is the organizers.

Mr. KNIGHT. That is right.

Senator MIKULSKI. In other words, there is a generic pool of what we would call field organizers.

Mr. KNIGHT. That is correct; yes. A lot of us have left this area.

Senator MIKULSKI. There are essentially certain organizations, frameworks, that they work with.

LOSS OF FIELD ORGANIZERS

Mr. KNIGHT. That is correct, and we lose them. Once they leave the local program—the street level—they seldom return. Part of the reason they cannot return is this benefit area. We are very excited to be working in this collaborative venture. I was struck immediately when I talked to the other national groups. No one wants to lose these staff from the field.

It is OK if they leave an NHS and work for a CDC or another intermediary and have the chance to come back. But we are losing them from the field. We are training them and then they are, with all due respect, running for political office, et cetera. We no longer have them in our field, although as a friend perhaps, and we no longer have them.

We would like to keep them more in the field.

Senator MIKULSKI. Are you chairing this task force?

Mr. KNIGHT. No; Joe McNeely, who is with the Development Training Institute, is serving as our coordinator.

Senator MIKULSKI. Mr. McNeely was the first Executive Director of SECO.

Mr. KNIGHT. Yes; he was.

Senator MIKULSKI. Well, please keep us informed, because we do not want to lose the organizers, and I think that you are onto something here and we would be very much interested, because it goes to capacity building and other areas, which I am going to get to.

Let us go to headquarters, though, and the staff turnover there. What about the ability to retain there? There are people who felt that there was an inertia settling in and it is very difficult in some ways to have this conversation. I do not want to look back. I do not want to talk about previous managers or whatever. I would just like to speak thematically, and this is a no-fault conversation.

Certain things kind of got out of control, like that whole mileage reimbursement thing, when you flew who owned it. I am not even taking a side in it, but things just festered.

People felt that they had no place to go for personnel concerns or issues. Things just were not dealt with. That is what I heard. I do not know what you found.

But now that you have a team and obviously a team that represents the pluralistic nature of this country and the pluralistic nature of the constituency served, which I am glad to see, what then have you identified as some of the issues and what do you think could be done for retention and this staff building that you have identified?

RETAINING STAFF

Mr. KNIGHT. Regarding retention, we have hired strong, capable field managers. We have taken a great step forward in restoring the confidence of our field staff. We are hiring folks who, frankly, come out of a lot of field work and understand the needs of local organizations.

I think by clearing away some of the complications that were involved in our grantmaking process, we will—and it will take another 6 or 9 months—be on a very different footing vis a vis local organizations. Neighborhood Reinvestment will be a supportive place rather than a complicating place, and I think that will reap great benefits.

By a sense of mission and purpose and moving forward to take on some new tasks, it creates, thematically, in any organization a sense of moving forward.

I think I would not be overstating the case, Senator, if I indicated that there are many people in the organization waiting to see who is named as Executive Director. I am not a pollyana. I understand that, but there is nothing I can do about that.

So I am proceeding to move along on these other tasks.

Senator MIKULSKI. Well, Mr. Knight, I think you are hanging in there, and I hope that the Board names someone tomorrow, and we would like to know the results of that.

Mr. KNIGHT. Yes; of course.

Senator MIKULSKI. Not only the name, but if they have not named someone tomorrow it is my intention to send them a letter asking them to move in a quick-paced way, because I think it is important to the mission of the agency. It is an act of respect to you and it is also important to the mission, so we can kind of get on with it.

But while we are trying to get on with it then, let me put the management issues over here. If you are the Executive Director, we look forward to more conversations with you in a different type of forum where we could discuss this.

MUTUAL HOUSING

Let us go on now to serving the poor. One of my questions deals with mutual housing. As you know, we just want to be sure on what is happening in mutual housing. Last year Neighborhood Reinvestment testified that 1,000 units would be under management of 10 or 11 mutual housing associations by 1990. My staff tells me that there are now 547 units under MHA, mutual housing management, by the end of 1990.

That is a difference of 45 percent. What accounts for these differences in projection? What is the reality, and what do you see happening with mutual housing?

Mr. KNIGHT. First, I am most hopeful that mutual housing will be one of the long-term solutions to meeting the housing needs of very modest-income individuals in this country.

Why the difference between 550 units and 1,000? It is with disappointment that we have not been able to move as quickly as we had anticipated last year in acquiring units in Texas. There is a great deal of property available in Texas, and we have set up a statewide organization to make bids and acquire those properties.

While the local program in Austin made a great deal of progress this year and now has over 400 units, the statewide effort to bid on properties has so far not had a bid accepted and has not acquired properties. We still intend and hope to develop a mutual housing association in San Antonio and possibly in Houston, but certainly in San Antonio.

Senator MIKULSKI. What are the obstacles then to being able to move ahead? Is it the changing nature of real estate? What would you identify as the obstacles?

Mr. KNIGHT. In a spirit of candor, but not throwing stones, we relied heavily on the ability to acquire properties from the RTC in San Antonio and Houston.

Senator MIKULSKI. OK, because I am going to come to RTC. Just keep on going.

Mr. KNIGHT. OK.

Senator MIKULSKI. Again, this is a no-fault conversation.

Mr. KNIGHT. Under that rubric, I am comfortable. It has been very frustrating. We seek through a mutual housing association to serve lower income individuals. When we looked at a lot of these properties, they were principally one-bedroom properties. To best serve our market, we need to convert them to two- and three-bedroom units. To arrive at a bid price, we subtract the cost to convert the units from the income the families can pay, to reach the acquisition price.

That acquisition bids under the now removed 95-percent rule fell below 95 percent, and so our bids were not successful. We have rebid, incidentally, on most of them.

Senator MIKULSKI. Were these one-bedroom houses or one-bedroom condos?

Mr. KNIGHT. Most of them were either duplexes or one-bedroom garden-style apartments. None of them were single-family detached.

Senator MIKULSKI. Those would be significant obstacles. We had hoped the lemon of RTC in this situation would convert into the lemonade of mutual housing.

FORECLOSURE PROPERTIES

Well, this then takes me to the foreclosure, to working with RTC. Essentially, on foreclosure properties we noted in this committee last year that the Federal Government was holding a lot of foreclosure properties. They were holding them in RTC, if you will, they were holding them in VA, and they were holding them in HUD, which I think were FHA.

We had asked if there was a national strategy to deal with foreclosure intervention.

Senator MIKULSKI. Also, we had asked Neighborhood Reinvestment last year if they were working to develop a national strategy on this. They said no, there were common steps. Could you tell us what you think now of maybe Neighborhood Reinvestment's role with HUD, RTC, and VA? Or does that just sound good in committee rooms, but a lousy idea in trying to intervene?

Because we would like to take foreclosure, which is a tragedy, and have two steps: one, a preventive strategy, particularly with veterans, where you have expertise and so on; and the other, where properties have been foreclosed, to make sure it stays in the residential market.

Mr. KNIGHT. On the preventive side, we are experimenting this year in several cities with an active intervention program: Anchorage, AL, Gainesville, FL, and——

Mr. GRANT. Colorado Springs.

Mr. KNIGHT [continuing]. Colorado Springs. Thank you. Those NHS's have worked directly with over 130 families to assist them to stay in their homes.

This has required about $53,000 in short-term bridge loans to those families to tide them over, pay off some past debts, and to bring them current in their mortgages. We think that that is a very successful approach. We are letting that approach be known through our training institutes, and have about 20-some odd programs offering some level of foreclosure prevention strategy.

On the disposition of currently vacant properties, we conducted a quick survey and, surprisingly enough, less than one-quarter of the vacant properties in the neighborhoods are owned by governmental entities, be it city, State, or Federal. Another 17 percent are owned by financial institutions and 58 to 60 percent by individuals and others.

I will come to Texas.

Senator MIKULSKI. In fact, it does not have to be Texas only.

Mr. KNIGHT. OK. Where we have sought to deal with HUD in particular on their properties, it has gone quite well, particularly where we can deal with the pricing issue. NHS's are seeking to serve lower income Americans, so on some of these properties they are not priced at a level that the local program can purchase them.

We are hopeful that HUD's recent bulk sale program will help a great deal. We think it will. Some NHS's that have a large number of vacant properties purchase these properties and do very, very well.

In Texas, where there were many, many vacant properties, many, in fact, did not lie in NHS neighborhoods, although the vacancy rate in NHS neighborhoods is about 4 percent, almost double the national average.

Where we, as I said, tried to purchase on the RTC properties, it has been slow. In Austin, the mutual housing association was not operating in a narrow neighborhood focus in acquiring properties, it found it easier to acquire properties from other institutions. Texas is, perhaps unfortunately, a buyer's market on vacant properties. There are many, many institutions down there in addition to governmental institutions offering properties.

The Austin program has bought over 400 units and I do not believe any are from a governmental entity.

We have worked with NHSA to establish the capacity to do some multifamily lending, and this year we are offering a single-family first mortgage product through NHSA which is designed to assist families purchase homes that may be vacant.

It is a difficult and multifaceted issue and we are tackling it from a variety of directions.

Senator MIKULSKI. So you think we are onto something with this, I will call it, foreclosure intervention strategy?

Mr. KNIGHT. I think we are.

Senator MIKULSKI. The anticipated result should be made more modest and more realistic?

Mr. KNIGHT. Yes; that would be correct. You are dealing family by family. You are often dealing with a family in distress, and frequently they come to the NHS awfully late in the distress cycle when their options are narrow. The cities which are impacted heavily with foreclosure also correlate with cities that are undergoing a downturn and, thus, are short on resources with which to intervene.

But it is a one-on-one situation and we think it is working quite well in the places where we are able to undertake it.

LOCAL AND NATIONAL COOPERATION

Senator MIKULSKI. Do you feel that you have gotten the cooperation? Where Federal agencies are involved, do you feel that they themselves have been cooperative?

Mr. KNIGHT. Yes; we have had good cooperation. We understand exactly the steps needed. We have had cooperation both locally and nationally, and we are quite comfortable working with other agencies on these issues. It is very, very difficult when you get down to the individual cases.

Senator MIKULSKI. Do you think that VA and HUD should establish a single person to be dealing with this?

Mr. KNIGHT. I cannot speak—I mean, it is tough to answer for somebody else.

Senator MIKULSKI. Think about it.

Mr. KNIGHT. We have not had that much experience with VA. Most of the homes that we deal with in NHS neighborhoods that are publicly owned—and again, it is less than one-quarter—are HUD homes. In these cases, we deal at the area office level.

PRESERVATION OF EXISTING STOCK

Senator MIKULSKI. That answers my question. I wanted to go to another issue that is coming up in terms of preservation of existing stock and converting it into use for the poor, and the preservation of existing housing is very key to me.

Let us go to the concerns I have around the 221(d)(3)'s and the 236's, which are essentially coming due. As we move to the preservation of these projects, nonprofits essentially—I think the phrase would be "right of first refusal"—would have the right of first refusal, and we do not want to lose this. I mean, we do not want to lose this housing stock.

Nonprofits are coming on line to deal with these housing units. Have you identified this as an area of capacity building, because suddenly people are finding that it is theirs for the having, and I do not mean for the taking. But my gosh, it is overwhelming. It is one thing to be head of a tenant council; it is another thing to have to head up a nonprofit to take this over.

Do you see a role for yourselves in that?

Mr. KNIGHT. Yes; one of my first tasks as a community organizer was to bail our organization out of a 221(d)(3) in the late sixties where we were in over our heads. In a sense I am looking at this again after many years.

There are three levels, Senator, that need to be addressed. Also, it must be recognized that a nonprofit is replacing a Federal subsidy and that subsidy has to be found someplace else. You have to find the rehab dollars for these buildings that are now 20, 25 years old, and you are doing this under the income constraints of serving individuals below 60 percent of the median.

You do not want to get involved in the situation of displacing people. So, you are working within a tight box.

We approach these buildings from three levels. We have a number of NHS's involved. First, the local capacity building. Just as you said, it requires somebody on the local staff dedicated to dealing with this task. This means they are not doing what the organization might otherwise require. This requires extra dollars. Neighborhood Reinvestment is making those grants and we are encouraging organizations to seek grants from city governments and foundations to fund a person on the streets focusing on these buildings, doing it. This is just an unescapable cost.

Second, the nonprofits stepping forward and taking advantage of Federal Home Loan Bank financing and the other financing to bring equity dollars to the table. You cannot do 100-percent financing of these projects. We find that, typically, the equity portion has to be about 25 percent to make it affordable to the families you want to serve.

We think we can help with those equity dollars, but even Neighborhood Reinvestment's entire $27 million will not do much in that regard.

Third, we really have to build the capacity of NHSA—our secondary market—to assist in taking out some of the financing that is available. We think that we have made progress, but there is still more progress to be made.

Financing for these projects involves soft seconds and thirds. We already have some experience at NHSA with some soft seconds on some smaller multifamily projects. This needs to continue.

Senator MIKULSKI. Mr. Knight, you have talked about how Neighborhood Reinvestment could deal with these, which is an astounding task.

Mr. KNIGHT. It is.

Senator MIKULSKI. So I am not minimizing it. Do you have any ideas or would you see a role for Neighborhood Reinvestment in training other non-Neighborhood Reinvestment nonprofits to take over these projects?

Mr. KNIGHT. Our training now is open to anybody who wants to attend. We advertise it widely and are pressing to increase the number of attenders from other organizations. We have reached the point where 10 percent of those attending the training institutes are from outside organizations. Our training institutes offer the kind of training you are speaking about are now from other organizations.

Senator MIKULSKI. You spoke earlier about the group that Mr. McNeely is overseeing in terms of pensions and health benefits. Do the major organizations that do grassroots organizing—and I put yourself, La Raza, IAF, and similar organizations together—have any type of organization that meets on these type of issues?

I know you have talked about the personnel, common areas of personnel. But for example, here comes the 223(d)(3) potential and we get all this rhetoric here from both my own colleagues in the Congress and even some of the housing advocates that say: Oh, right of first refusal. Well, that is a slogan; that is not a program, it is not a process, and it is not an outcome.

COMMUNITY REINVESTMENT ACT

Again speaking as a fellow community organizer, I am going to make sure, if we have the opportunity, it is taken advantage of. I do not know who is building this capacity for the groups to do it, even if the financing is there, for example to press for the implementation of the Community Reinvestment Act. With the credit crunch, it is my observation that the Community Reinvestment Act is not worth much, I mean that they are not doing it.

So my question is, first of all, are you all meeting and talking about this? Is there an organization?

Mr. KNIGHT. I cannot point to a single organization. There are places where we intersect that we do talk about this. As you know, the field is really interconnected; we talk back and forth. The concerns you raised, I would have to say are concerns that we are all worried about.

It is nice to have the right of first refusal, but that just means you are the first one to turn it down if you cannot deliver the goods. Without the local capacity and without the equity dollars, it is very tough.

On CRA, right now many, many financial institutions, more than I have experienced in the last 10 years, are stepping forward to NHS's and are saying: "We want to participate; here are funds to lend; how can we do it? Bring us a project, bring us something we can do."

AFFORDABLE HOUSING PROGRAM MONEY

The Affordable Housing Program provided money through the Federal home loan banks, is a tremendous resource. We have had almost 30 NHS's working with thrift institutions to take on specific projects. This program has been a tremendous positive impact for us.

In fact, NHSA is working with a savings and loan that is offering a first mortgage product at 8.5.

Ms. WIDENER. 8.75.

Mr. KNIGHT. 8.75, in 40 NHS cities, using the Affordable Housing Program money. I am not sure whether this counts as CRA, but we are finding just tremendous interest where there are organizations willing to work with the financial institutions.

Senator MIKULSKI. Well, do you find that even in the credit crunch, that this is what they are doing?

Mr. KNIGHT. Obviously, institutions that are netting zero or are in red ink are not among those stepping forward. But among those that are profitable; yes, they are.

Senator MIKULSKI. I am glad to hear it.

Mr. KNIGHT. Again, there is more that needs to be done. Do not misread me, Senator.

Senator MIKULSKI. No; I know. I understand that.

Mr. KNIGHT. There is much, much more that needs to be done. The resources are very inadequate that one can immediately foresee for the oncoming expiring use problem.

TRAINING MONEY

Senator MIKULSKI. Let me go then to the last point of following up on this. What would your position be if you were asked to put more funds into training for this purpose and less into creating new NeighborWorks organizations? And it is not like I have got an answer in my mind and I am playing "I got you."

Mr. KNIGHT. It is always tough balancing off one activity against another when you are playing a zero sum game. Sending someone through a training program gives you the manual, it gives you the ABC's, but if you are taking on an expiring use property, you need more than just a training. You need a friend on the far end of the phone, and you also need a friend who is willing to come to town every once in a while to help you with the negotiations, to work closely putting together the deal, to encourage you to do this and not that, or to point out the wisdom of these steps and the risks in those steps.

So if we are talking just training, that is one thing. If you are talking getting in there and hanging with the organizations, then, in effect, you are creating new organizations and new capacity.

I am not trying to avoid your question.

Senator MIKULSKI. No; I know what you are saying. You just do not put somebody through the mill. But that is exactly what my question is, that instead of creating new NeighborWork organizations, where they are fledgling organizations, where essentially they have organized to organize, to use an old Alinsky term, then they do not know next steps or they have got some general ideas, would you then see yourself as undertaking that role, or do you think it is really your role to undertake it?

Mr. KNIGHT. Yes; unequivocally yes. One of the first things I did, Senator, when I was appointed Acting Executive Director was to identify as a challenge was that the affiliation with Neighborhood Reinvestment was not defined. It is not clear. Could we not adopt— and we have in the last year or two adopted—some fledgling organizations.

We are working now in Battle Creek to take on a very productive organization, to work with them and expand their efforts. I think these things can be done, absolutely. If that is the approach you are taking, I am wholeheartedly in favor of it.

ADDITIONAL FUNDS NEEDED

Senator **MIKULSKI**. Well, how much additional funds do you think you would need to train major nonprofits in 10 cities?

Mr. **KNIGHT**. Perhaps if we had $2 or $3 million to focus on that kind of effort. We are talking about staff people, Senator.

Senator **MIKULSKI**. I know what you are talking. I know, it is not memos and fax machines, I know.

Mr. **KNIGHT**. That is right.

Senator **MIKULSKI**. You need more than a fax friend.

Mr. **KNIGHT**. Yes; you do.

We could take on a considerable number of expiring-use buildings if we had the sense that this was a 2-, 3-year effort, and we are going to be with you through this. This is real estate development. It does not happen in 6, 8, 10, 12 months.

Believe me, I am a much more sober man after dealing with the San Antonio and receiving your correct memory that we talked about 1,000 units and this year we are talking 550 in actuality. We still have bids on 600 units which we bid on originally in March 1990.

Senator **MIKULSKI**. Well, I think you have given us an excellent navigational chart and I appreciate the candor in which you have responded. I have pretty much gone through my questions for the purposes of this hearing.

Is there anything you or any of your people would like to add.

Mr. **KNIGHT**. Just to apologize for the nature of my summary in the beginning and not sticking closer to my prepared remarks.

Senator **MIKULSKI**. Do not worry about that. If that is the worst thing that happens between you and me— [laughter].

Mr. **KNIGHT**. Thank you; thank you for your support.

Senator **MIKULSKI**. Well, thank you. Please, stick to the mission, stick to the purpose, stick to the tradition and solve personnel problems.

Mr. **KNIGHT**. Senator, I started life as a community organizer, and I am there.

Senator **MIKULSKI**. Thank you. Goodbye, everybody.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Corporation for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

Capacity Building

Question: If "capacity building" within Neighborhood Reinvestment's own staff is such a priority, why is a "capacity-building" activity like "training" only increasing by 3% in 1992, while the overall budget is going up 5%?

Answer: The capacity building of Neighborhood Reinvestment's own staff is handled by the staff development department and is categorized as an administrative cost, not a training cost.

The major Neighborhood Reinvestment capacity-building effort, partially captured in the training function, is to enhance the capacity/ability of local NeighborWorks®m organizations' board and staff members. Generally, two approaches are used to increase capacity at the local level. One approach is training which tends to be a classroom approach and thus generic in nature. The training approach is most effective in addressing basic capacity-building issues such as financial management, real estate financing and counseling, specification writing, etc.

The second approach is on-site assistance. On-site technical capacity building deals with specific and often critical situations. Typically, this capacity building is used to assist local NeighborWorks organizations assess their fund-raising needs; implement or upgrade internal systems used for accounting, lending or construction management; recruit, hire, and retain qualified local staff; and expand programmatic activities.

The second approach is functionally accounted for as part of the organizational expansion category, which we have suggested should increase by 14 percent within a funding level of $26,900,000.

Staff Retention

Question: Given the staff retention problems that you have had, does it make sense to provide over 16% of the increase you're requesting ($216,000) for "creating new organizations" when you're having such difficulty stabilizing your existing organizations?

Answer: According to the enabling legislation, part of Neighborhood Reinvestment's mission is to "establish neighborhood housing services programs throughout the United States, supervise their progress, and provide them with grants and technical assistance" (P.L. 95-557). The retention of local executive directors is very important and, along with other needs of existing NeighborWorks organizations, could legitimately command the full attention of the Corporation. However, we do not think that stopping the development of additional NeighborWorks programs in new cities and rural areas would be in keeping with the intent of Congress in creating the Corporation.

We plan 11 new starts in FY 1992, two fewer than in FY 1991. The decrease reflects realistic budgeting of costs to complete those begun in FY 1991 combined with the projected FY 1992 starts. There is demand, and need, for many more new organizations.

In our experience, the rate of loss of local executive directors has not changed a great deal over the past many years. What is new is a commitment to study the situation, to gather accurate data, and to develop some experimental approaches to stem the losses. I do not anticipate immediate results. I do, however, anticipate greater understanding that will enable us to intervene and assess which interventions reduce the rate of loss of local executive directors.

At any one time, there are local NeighborWorks organizations experiencing difficulties. The proportion of the network experiencing difficulties is similar to past years. However, organizations are experiencing "new" difficulties. Partly this reflects the expanded scope of activities. For example, over extension in neighborhood real estate development activities is more common today than an inability to make basic revolving loans. As local programs mature and use more strategies there will continue to be a number that struggle to expand activity without difficulty.

We expect our revised program monitoring approach to begin providing hard data on this. In the meantime, we continue to address the needs of organizations that are struggling, and we carefully weigh the costs and benefits of intervention efforts.

Administrative Grants

Question: Why did your "administration grants", those designed to help local organizations in severe financial trouble, go up by 99% between your 1990 budget estimate and your actual use of your 1990 appropriation?

Answer: The timing of the need for administrative grants varies widely depending on the many factors which contribute to NeighborWorks organizations' cash-flow requirements. Their operating funds depend on the success of local fund-raising campaigns, grant applications and contract negotiations. Because our financial ability to respond to the need for operating funds has remained very limited, our policy has been to minimize this grant activity while expanding grants more specifically tied to products and goals.

Because the needs are very difficult to project, estimates are based on recent activity and our total available funding. The following table indicates that in the FY 1990 Budget Justification prepared in January 1989, we estimated that we would award $345,000 in administrative grants; this figure was projected based on the FY 1988 actual total of 10 administrative grants totalling $329,950. In the FY 1991 justification prepared in January 1990, we estimated that we would award $250,000 in administrative grants in FY 1990; this figure was projected based on the FY 1989 total of eight administrative grants totalling $196,000. We actually executed 18 FY 1990 administrative grants totalling $497,377. This was $247,377 more than estimated in the FY 1991 justification, an increase made possible as part of an overall increase of $973,083 in total grants beyond the amount projected in the FY 1991 justification.

Administrative grants are used by local programs to cover gaps in cash-flow, such as staff costs when fund-raising expectations are not met. Increasingly, many grants are project-specific, creating a very difficult climate for local organizations to maintain the same staff necessary to operate specific projects while continuing core activities such as homeownership promotion and revolving loan funds. "Core administrative support" is perhaps the most difficult fund-raising task for most local, community-based development organizations, and NeighborWorks programs are no exception.

Question: While there was a drop in these grants to troubled groups in FY 1991, why is it still scheduled to go up in 1992 by $100,000, a jump of 40%?

Answer: We are hoping that with $563,000 more in grants in FY 1992 than in FY 1991, we will be able to respond to more of the requests for assistance for urgent operating funds. However, beginning in FY 1991, we will no longer maintain a separate grant category called "administrative grants," which were defined as grants to assist NeighborWorks programs during periods of critical cash-flow difficulties. Instead, such grants are budgeted and reported along with other grants that strengthen and enhance existing NeighborWorks organizations. To facilitate understanding of the new functional grant labels, we prepared estimates under the old nomenclature.

	FY 1988 Actual	FY 1989 Actual	FY 1990 Estimate 90 Just	FY 1990 Estimate 91 Just	FY 1990 Audited Actual	Variance 91 Just/91 Actual $	%
Administrative Grants	$329,950	$196,000	$345,000	$250,000	$497,377	$247,377	99%
Total Grants	$4,209,879	$5,013,860	$5,359,000	$8,781,000	$9,754,083	$973,083	11%
Percent of Administrative	7.8%	3.9%	6.4%	2.8%	5.1%		
Total Expenses	$19,718,618	$21,421,883	$23,082,000	$28,036,000	$28,254,151	$218,151	1%
Percent of Administrative	1.7%	0.9%	1.5%	0.9%	1.8%		

	FY 1991 Estimate 92 Just	FY 1992 Estimate 92 Just	Variance 91 Just/91 Actual $	%
Administrative Grants	$250,000	$350,000	$100,000	40%
Total Grants	$9,169,000	$9,732,000	$563,000	6%
Percent of Administrative	2.7%	3.6%		
Total Expenses	$27,212,000	$28,625,000	$1,413,000	5%
Percent of Administrative	0.9%	1.2%		

Foreclosure: Prevention and Disposition

Question: Given the large number of foreclosed or vacant properties of which the Federal Government is now the owner, have you changed your mind as to developing a "foreclosure strategy" with the RTC, VA, and HUD?

Answer: On the preventive side of the foreclosure issue, we are experimenting in two cities with an active intervention strategy. They are Anchorage, Alaska and Colorado Springs, Colorado.

These NHSs have directly helped over 130 families to stay in their homes. This effort has required about $53,000 in short-term bridge loans to those families to tide them over, pay off some past debt, or to bring them current in their mortgages. The results of this strategy are realized slowly. Strategy implementation requires family-by-family case work. Often a family in distress approaches the NHS when the situation is already at crisis level. This limits the options and intensifies the labor involved to successfully resolve the situation.

We are educating the rest of the NeighborWorks network on this strategy through the Training Institutes and, to date, approximately 20 NeighborWorks organizations are offering some level of foreclosure prevention assistance.

On the disposition side of this issue, we conducted a quick survey of our network and discovered that less than a quarter of the vacant properties in the neighborhoods are owned by governmental entities -- city, State or Federal Government. Approximately 17 percent are owned by financial institutions, and approximately 60 percent are owned by individuals and others.

We find that it is most effective to work with representatives from RTC, HUD and VA at the regional level when dealing with specific properties.

Monitoring Foreclosure Intervention Strategies

Question: How do you monitor and evaluate "foreclosure intervention" strategies that are done by particular NeighborWorks organizations to know what works and what doesn't?

Answer: Since Foreclosure Intervention Prevention (FIP) is a pilot project that is being tested and refined for replicability, our staff takes a hands-on approach as much as possible from start-up through a 3-5 month development period and throughout the first year of operations. After that, reports are received based on a mutually agreed format. Wherever the local staffs are already producing contract reports, these are shared with our staff.

However, our emphasis right now is on putting in place the appropriate structure and process in order to be able to produce the results expected in the future.

Each successful development process will result in an FIP Task Force which provides the oversight and fund development functions. In addition, an FIP Loan Committee is developed to review and approve the specialized Homeowners Emergency Loan Pool (HELP) loans. Because FIP is still experimental, we're learning from each development what elements are essential to the model and what elements can be adapted to local conditions.

In terms of specific programs:

The Anchorage NHS/FIP project has obtained, with our assistance, HUD-approved housing counseling agency status. With it they received a $12,000 first-time administrative grant to provide mortgage counseling to HUD clients. NHS provides reports to HUD on the number and status of clients serviced. These HUD reports are sufficiently detailed to meet our Neighborhood Reinvestment reporting requirement.

Hands-on involvement by Neighborhood Reinvestment staff with the Anchorage effort is somewhat problematic because of distance and climate, but we keep close contact by phone.

The Homeowners Emergency Loan Pool (HELP) fund is the only program element that is not in place in Anchorage, though it will be in a matter of weeks.

Colorado Springs NHS/FIP project receives an annual grant from the county to provide housing counseling to any client living in the target area. The NHS provides monthly reports to the county, which are shared with us, on the number and status of clients serviced.

All other FIP projects, Gainesville, Florida; Trenton, New Jersey; New York City, and Minneapolis/St. Paul, are in the pre-development and development stages. These programs are monitored and evaluated based on a developmental timetable of local events which include partnership identification and orientation, fundraising, policy and procedure development and public information activities.

Work with the Veterans Administration

Question: Last year, we asked you about working with the VA on a foreclosure intervention strategy. We found out that it took you nine months to have one meeting on the subject and there were no specific projects on which you were jointly working. Could you update us on what you are now doing to work with the VA and give us some "site-specific" examples, if you have any, on either foreclosure intervention or on using vacant or foreclosed VA properties?

Answer: We are making site visits to VA regional offices in those areas where we have a project, to discuss our foreclosure intervention process.

In our conversations with the VA staff in Cincinnati, we have learned that clients who have mortgage difficulties but are not located in the regional office area are given an 800-number and are apparently counseled by phone. The thinking is that VA best knows how to help its clients. VA staff further indicated that community counseling agencies wanting to work with VA clients would have to be trained by the VA.

When asked how closely they work with VA offices, the NHSs we've been talking to about FIP all say "not very." The one exception is Colorado Springs.

The Colorado Springs counselor, Carol Parks, acknowledges a very good working relationship with the VA regional office. She reports that the VA regularly refers their clients to the FIP program there. We suspect that the proximity of the regional office has made that close working relationship more feasible.

As we make the rounds to the various VA offices, we are discussing the following:

- What our program involves - the FIP design;
- Locations of VA regional offices in relation to our test sites;
- How VA offices deal with the need for face-to-face counseling in those instances where it is warranted;
- Whether the VA offices have any contractual agreements with outside agencies.

Training Nonprofit Organizations Outside NeighborWorks Network

Question: Has your position on increasing your training for existing nonprofits changed since last year?

Answer: We have developed a plan to significantly expand the amount of training we can provide to organizations in our network and to other existing nonprofit organizations outside our network. Providing training for nonprofits outside our network together with those in our network benefits both groups. Currently, 10 percent of those attending our Training Institutes are from outside nonprofit organizations.

Question: How many of the 16,000 hours of training you provided in FY 1990 went to nonprofits outside the Neighborhood Reinvestment network?

What about for the 21,500 hours of training you project for FY 1991? What about for the 25,000 hours of training you anticipate in FY 1992?

Answer: Approximately 1,000 of the 16,000 hours of training were provided to nonprofits from outside the Neighborhood Reinvestment network.

Of the 21,500 hours projected for FY 1991, it is estimated that 2,400 will be with nonprofits outside of our network. Whereas we earlier projected 25,000 hours of training for FY 1992, we are now able to project 36,000 hours, with as much as 10,000 of these hours being provided to nonprofits outside of our network. The Training Institutes are open to all local, community-based development organizations. The attendee pays a $125 daily fee to cover our costs, with a fourth person attending for free if three others register from the same organization.

Expiring-Use Properties

Question: Given the "urgency" of training existing nonprofits to take advantage of the preservation aspects of the new housing law, what would your position be if you were asked to put more funds into training for this purpose and put less into creating new "NeighborWorks" organizations?

Answer: We are interested in responding to the urgency of assisting existing nonprofits in taking advantage of the preservation aspects of the new housing law. However, if a program is taking on an expiring-use property, more than classroom training and manuals are required.

An effective program of assistance would require a strategic combination of intensive training workshops and sophisticated on-site technical assistance. A series of three training workshops (first in performing the due diligence process necessary to negotiate an effective transfer of ownership, second in property management, and third in resident and organization development) would be provided, each followed by on-site technical assistance. The program would be most effective if delivered in distinct, geographically limited markets.

On site-training -- expensive because it is staff intensive-- is necessary. The expiring-use properties represent a challenge beyond the capacity of most nonprofit organizations. To be successful in assisting groups actually acquire properties it requires organization building over a two-to-three year period-- in effect, carrying out what we mean by a "new start." A local group's costs during the lengthy acquisition phase -- 12-18 months -- requires local fundraising and significant commitments of staff time; the costs of acquisition, rehabilitation and start-up operations often exceed initial projections, grant dollars available and public resources; and costs of ongoing operations typically require funds in addition to revenues generated from the building itself.

Of course, if asked, we would provide increased training; however, such training is unlikely to functionally equip local community-based groups to succeed. There are currently plenty of training courses offered by numerous organizations. Beyond training, success depends on equity dollars and a long-term (2-5 year) commitment to technical assistance and, in many cases, operating funds.

Additional Funds to Train Major Nonprofits

Question: How much additional funding would you need to train major nonprofits in 10 cities in FY 1992?

Answer: Our estimates to provide training and technical assistance to major nonprofits in 10 cities is as follows:

Training

Twenty training participants in each city equals 200 participants. Each participant will be invited to attend 3 workshops.

Compensation (including benefits):		
Training Project Manager	$56,000	
Logistics Coordinator	42,000	
Clerical Assistant	35,000	$133,000
Travel for Staff		75,000
Professional Services		180,000
Conference/Workshop		
Group Meals, Room rentals		30,000
Direct Project Operating Costs		
Tele/Printing/Supplies		30,000
Training Grant		
Lodging Expenses and Local Transportation		52,000
Total Training Expenses		$500,000

Technical Assistance

Project Manager (includes benefits and travel)	$ 87,000
Field Project Officers (4 @ 45,000) (includes benefits and travel)	297,000
Clerical Assistant	35,000
Direct Project Operating Costs Occupancy/Tele/Supplies	50,000
Corporate Administration	100,000
Capacity Building Grants (Average of $50,000 X 10 Organizations)	500,000
Consultant Professionals (architects, engineers, attorneys, accountants)	250,000
Equity Grants (average of $150,000 x 10 organizations)	1,500,000
Total Technical Assistance Expenses	$2,819,000

Mutual Housing Association Units

Question: You projected that 1,000 new mutual housing units would be under your control by the end of 1990. Actual data shows less than 600 were completed. What accounts for this difference in your projections and the reality?

Answer: First, we are hopeful that mutual housing will be one of the long-term solutions to meeting the housing needs of very modest-income households in this country.

Second, we are disappointed that we have not been able to move as quickly as we had anticipated last year in acquiring properties in Texas. The Texas Mutual Reinvestment Corporation (TMRC) and the Central Texas Mutual Housing Association (CTMHA) have aggressively pursued the acquisition of foreclosed properties, with the dual intent of providing affordable housing opportunities for low-income families and preserving and stabilizing neighborhoods.

This activity has moved more slowly than we initially projected, but we are optimistic based on recent progress that the pace will accelerate from this point.

The TMRC has been focusing on the acquisition of RTC-owned, multifamily properties in San Antonio and in Houston. Although they have experienced lengthy procedural delays, TMRC has recently been informed that its bids have been accepted by RTC for two San Antonio properties containing 300 units.

TMRC has also submitted bids to RTC for two additional properties in San Antonio (containing 138 units) and for a property in Houston (containing 130 units).

We have been informed that bids submitted by CTMHA have been accepted by RTC for 42 duplex units in Austin, Texas. CTMHA has also been quite successful in acquiring foreclosed properties not owned by RTC in Austin, including a 122-unit duplex community and a 92-unit garden apartment complex. CTMHA is expected to soon close on two additional properties containing an additional 288 units.

We do expect to increase our activities in this area, but we caution that because this activity (acquisition of foreclosed properties to serve the needs of low-income families) is quite labor-and capital-intensive, the increase will be modest. We will look for opportunities "all across the nation", but we expect to still concentrate heavily on Texas and the Southwest--primarily because of the heavy concentration of RTC and other inventory in this area.

Location of Additional FY 1991 Mutual Housing Units

Question: Your justification also indicates that you will increase mutual housing by 900 units in 1991, an increase of 165% over your end-of-year total for 1990. Could you tell us where these additional 900 units, by city, will be located?

Answer: The location of 900-plus units to be added to our mutual housing network, by city:

Lower East Side	48
Baltimore	49
Stamford	70
Austin	274
San Antonio	300
Anchorage	435
Total	1,176

Strengthening vs. Creating Mutual Housing Associations

Question: You estimate that mutual housing will grow from a total of 8 associations through the end of 1989 to 19 associations by the end of 1991, a jump approaching 140% in two years. Given this rapid expansion in just two years, do you think it might be more prudent to spend FY 1992 strengthening your existing mutual housing network rather than creating four additional associations as your budget request now calls for?

Answer: We agree that reducing the rate of new starts and concentrating on existing efforts is the best use of our staff time during FY 1992. The opportunities and interest in mutual housing is significant. We are not able to respond to requests at the rate we had been. We currently project 18 Mutual Housing Associations by the end of 1991 (a thorough assessment of a potential 19th site in Spokane ultimately determined that the timing was not right for a mutual housing development at this time). Selection of new sites for 1990 and 1991 have been strategically targeted to take advantage of unique opportunities and resources, while not detracting from our efforts to strengthen our existing Mutual Housing Associations network.

For example, in Anchorage, Alaska, the combination of need for affordable housing, foreclosed private developments and 501(c)(3) bond financing will allow a very strong NHS to develop over 400 units that will be owned by a Mutual Housing Association. In San Antonio, Texas, the purchase of 300 units from the RTC will allow the San Antonio Mutual Housing Association to get off to a fast start, and in New Haven, Connecticut, the current availability of State grant funds for mutual housing development will put the new Mutual Housing Associations in a solid equity position early on. At the same time, with limited exceptions, we are using our available FY 1991 capital funds, as well as our staff resources, to strengthen existing associations.

In FY 1992, we will focus on cities where there is a large inventory of multifamily properties facing foreclosure or expiration of use restrictions. In a number of these cities, there is strong local endorsement, as well as serious need, for development of a nonprofit ownership entity such as mutual housing.

Financially Troubled Mutual Housing Associations

Question: How many Mutual Housing Associations, if any, are financially troubled today, and how does that compare with five years ago, three years ago, or two years ago?

Answer: Mutual Housing Associations have three essential financing elements:

1) project (dwelling/units) capital and debt structure;
2) project property management and operating costs including, if necessary, debt amortization; and
3) association costs beyond property management, including staff costs to develop more units, association occupant training and board management.

The physical projects of the Mutual Housing Associations are on sound financial grounds.

We, and each of the associations in our network, have emphasized the importance of financial mechanisms that do not jeopardize the long-term viability or affordability of mutual housing units. While this kind of financing is not always simple to find or to assemble, the creative combination of our funds, Affordable Housing Program funds from the Federal Home Loan Banks, State housing dollars, Neighborhood Housing Services of America, and local private grants and loans have created a solid equity footing for associations owning mutual housing units. It should be noted that the Madison Mutual Housing Association, which joined our network last year, has requested our assistance in restructuring the financing on their first two properties, which appear to have been undercapitalized. All of Madison's later developments are sound and productive.

Clearly, the availability of additional equity capital would greatly facilitate the process of identifying and packaging the resources necessary to insure permanent affordability.

Mutual Housing Association costs beyond property management and project financing need to be raised until the association owns sufficient inventory to be self-supporting. This might require ownership of 500-1,000 units. None of our associations has reached the point of self-sufficiency yet, although the Central Texas Mutual Housing Association, based in Austin, is very close.

All of our associations, however, would certainly benefit from more readily available equity capital as well as from additional dollars for strengthening administrative capacity.

Sources of Financing for Mutual Housing Associations

Question: What were the sources of this funding, how was this money used, and how much of it is a direct result of leveraging from the appropriated funds we provide Neighborhood Reinvestment?

Answer: In 1990, Neighborhood Reinvestment provided support in the following approximate amounts to our Mutual Housing Network:

o	Organizational Development Assistance	$ 865,000
o	Administrative Grants	$ 673,000
o	Real Estate Development Grants	$ 1,415,000

These resources leveraged approximately $26 million dollars in MHA project funding from other public and private sector sources; a ratio of 1:8. Additional local dollars were leveraged to support the administrative costs of a number of Associations.

The involvement of our staff in the early life of Mutual Housing Associations as well as the flexibility of our capital resources have allowed our MHA network to leverage a wide range of local resources. Funders and lenders vary, depending on project needs and the local environment but, to date, we have directly leveraged substantial commitments from the Federal Home Loan Bank's Affordable Housing Program, the States of Connecticut, California, Maryland and New York, five major insurance companies, a 45-member lender consortium, Freddie Mac, a significant number of lending institutions and municipal governments through CDBG grants and general revenue outlays.

Neighborhood Reinvestment's organizational development assistance includes all of the activities associated with building a local partnership of public, private and resident sectors as well as locating appropriate, affordable real estate, organizing and training residents and securing local resource commitments. For example, during this phase of our work in Connecticut, state legislation was enacted which has resulted in approximately $15 million dollars in appropriations for Mutual Housing in Hartford and Stamford to date and a preliminary commitment in New Haven. Additional project funding in Hartford was obtained from 3 major insurance companies ($500,000 for the first 42 units). In Stamford, the City committed $3 million for acquisition of the first site where 70 units will be developed. Our local fundraising efforts also produced approximately $400,000 in these two cities for administrative costs.

Our capacity to make capital grants and to leverage NHSA resources is also critical. In Austin, Texas, the combination of a $300,000 grant from Neighborhood Reinvestment and a forward commitment for take out financing of $200,000 from NHSA, leveraged $1.4 million in local loans to allow the MHA to acquire 92 units. A second Austin project of 122 units was made possible when NHSA took a $350,000 second mortgage. Administrative grants from Neighborhood Reinvestment ($50,000 for each of two years) have assisted the MHA in Austin to retain skilled and talented staff as the Association continues to move toward self-sufficiency.

Question: Could you provide us with the same information for your 1991 and 1992 estimate?

Answer: We anticipate that in 1991 and 1992 we will continue our support of our existing network in the same approximate amounts that were committed in 1990. New organizational development activity will be targeted toward cities where the existing multi-family inventory is appropriate for Mutual Housing and is a high priority for funding from other public and private resources. We anticipate that 4 new Mutual Housing Associations will be developed in each of these two years and that the leveraging ratio of our funds to other public and private resources will equal or slightly exceed our current figures.

Cap on Corporate Administrative Expenses

Question: You indicate that you have reduced certain expenses to meet the 15% cap on administrative expenses set by the National Affordable Housing Act. Please outline these reductions and the dollar amounts associated with each activity.

Answer: The definition of administration is all expenses related to particular departments: general counsel, finance, administrative services, personnel, staff development and executive management of the Corporation as well as the Washington, D.C. occupancy and phone costs associated with these departments.

To meet the 15% cap on administrative expenses set by the National Affordable Housing Act (NAHA), we reduced budgeted expenditures by $227,407. In discussing implementation of the requirement set forth in NAHA with the Office of Management and Budget (OMB) it was concluded that while several interpretations were possible, it seemed most reasonable to apply the 15% on an all sources basis. Subsequent to those discussions the House Subcommittee on Housing and Community Development informed us of their narrower interpretation of applying the cap to only appropriated funds. In its FY 1992 passback, OMB applied the 15% to non-appropriated funds as well.

Since the spirit of law seemed to be one of restraining administrative costs, the application on an all sources basis meets OMB's requirement and seem reasonable. The Corporation is able to function in a legally and financially responsible manner with the cap. Table 1 reflects the reduction by functional department and object code (expense category). Operating costs include:

- Telephone, postage, delivery
- Films, visual products, printing, office supplies
- Insurance, agency fees for temporary help and direct invoices from temporary clerical workers, equipment rental, equipment maintenance, publications, dues, subscriptions, classified ads, expendable property, purchases of fixed assets and miscellaneous expenses such as document storage.

TABLE 1

NEIGHBORHOOD REINVESTMENT CORPORATION
COMPARISON OF ADMINISTRATIVE EXPENSES
FY 1991 APPROVED BUDGET AND FY 1991 REVISED ESTIMATE

	FY 1990 ACTUAL EXPENSES	FY 1991 APPROVED BUDGET	PROPOSED (REDUCTIONS) OR INCREASES	SUB-TOTAL REVISED BUDGET	PROPOSED PROGRAMMATIC ALLOCATIONS	FY 1991 REVISED ESTIMATE
BY DEPARTMENT:						
Executive Services	$954,972	$726,721	($106,721)	$620,000	$0	$620,000
General Counsel	412,131	400,504	(41,504)	359,000	0	359,000
Financial Systems	900,430	922,339	(25,339)	897,000	0	897,000
Administrative Services (A)	2,448,746	2,670,796	(53,843)	2,616,953	(411,953)	2,205,000
	$4,716,279	$4,720,360	($227,407)	$4,492,953	($411,953)	$4,081,000
BY EXPENSE CATEGORY:						
Compensation	$2,662,853	$2,623,400	$72,907	$2,696,307	$0	$2,696,307
Travel	125,023	89,000	(10,500)	78,500	0	78,500
Professional Services	323,670	229,000	9,812	238,812	0	238,812
Conferences and Workshops	47,527	85,150	(46,600)	38,550	0	38,550
Occupancy	751,981	750,000	0	750,000	(351,000)(B)	399,000
Operating Costs	805,225	943,810	(253,026)	690,784	(60,953)(C)	629,831
	$4,716,279	$4,720,360	($227,407)	$4,492,953	($411,953)	$4,081,000
ALL SOURCES OF FUNDS	$29,313,330	$27,462,000				
PER CENT OF ALL SOURCES	16.1%	17.2%	-0.9%	16.4%	-1.5%	14.9%
CONGRESSIONAL APPROPRIATION	$26,554,000	$25,554,000				
PER CENT OF APPROPRIATION	17.8%	18.5%	-0.9%	17.6%	-1.6%	16.0%

(A) Includes data systems, staff development, personnel and office services.
(B) The occupancy cost for the D.C. office has been allocated based on square feet assigned to administrative staff, 53%.
(C) The FTS long distance telephone expense has been allocated based on the lines assigned to administrative staff, 37%.

Question: Your justification also indicates that you have assessed certain other program functions within the Corporation for occupancy and telephone expenses in order to live within this 15% cap on administrative expenses. Please provide a breakdown of these charges by program function, and object classification within each program function.

Answer: The 15% cap on administrative expenses focused on specific department level functions. All costs related to the executive management of the Corporation, the general counsel's office, all financial and administrative services were included in the 15% cap. Additionally, occupancy and telephone costs were allocated by floor area within the Washington office. Table 2 displays the results.

Question: Please provide for the record a detailed assessment of the Affordable Housing Act's legislative history that permits you to charge other program functions for administrative expenses.

Answer: This matter, to the best of my knowledge, originally rose in the Spring of 1990 when the National Affordable Housing Act was in draft stage. The original proposal was for a 5% cap. That would have placed an impossible constraint on the Corporation -- we could not have operated in a legally and financially responsible manner. Per congressional staff request, at that time, we supplied the committee with both a recommended definition of administration and draft language. Because administrative costs do not rise or fall proportionately with increases/decreases in expenditures, the impact of a fixed percentage cannot be gauged until total expenses are known.

This is a frequent issue with small Neighborhood Housing Services. They may have operating expenses of $100,000 and the audit fee is $3-5,000 while a program with $1,000,000 in expenses has an audit fee of $10,000.

Similarly, if our resources were at the authorized FY 1991 level of $35,000,000, we would be comfortably under the 15 percent. Since our resources in FY 1991 are $27,462,000 we are right at the margin.

After the Act became law, we contacted staff of the House Subcommittee on Housing and Community Development and the House and Senate Appropriations Subcommittees on VA, HUD and Independent Agencies to inform them of the steps we were taking. OMB in their FY 1992 review raised and discussed the cap. We agreed to an all sources application. It seems to reflect the spirit of the law and is reasonable if we can allocate Washington floor space and FTS use by function.

On September 17, 1990, the Board adopted the Corporation's FY 1991 budget subject to changes in appropriations and authorization bills then pending. Once these were passed, the

TABLE 2
NEIGHBORHOOD REINVESTMENT CORPORATION
FY 1991 ALLOCATION OF D.C. OCCUPANCY & CORPORATE -WIDE FTS SERVICE

FUNCTION	WASHINGTON, D.C. OCCUPANCY			CORPORATE-WIDE FTS TELEPHONE SERVICE		
	SQ FOOTAGE 32,893	% OCCUPANCY	FY 1991 BUDGET	FTS LINES	% FTS	FY 1991 BUDGET
TRAINING & INFORMING	12,209	37.1%	$278,380	54	18.2%	$17,696
FIELD/OVERHEAD	3,168	9.6%	72,234	132	44.6%	43,257
ADMINISTRATION	17,516	53.3%	399,386	110	37.2%	36,047
TOTAL	32,893	100.0%	$750,000	296	100.0%	$97,000

adopted January 10, 1991. On February 20, Congressman Henry Gonzalez, Chairman of the House Subcommittee on Housing and Community Development, sent us the attached letter.

We understand that the appropriations committees have a vital interest in the allocation of and expenditures of funds. We seek to work closely with the Senate Appropriations Subcommittee to ensure that our allocations of resources is appropriate to accomplish our mission.

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED SECOND CONGRESS
B303 Rayburn House Office Building
WASHINGTON, DC 20515-6052

February 20, 1991

Mr. George Knight
Acting Executive Director
Neighborhood Reinvestment Corporation
1325 G. Street N.W.
Suite 800
Washington, D.C. 20005

Dear Mr. Knight:

This will confirm your understanding that the Committee intended that the 15% limitation included in the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) applies solely to the amounts appropriated for the Neighborhood Reinvestment Corporation. This restriction does not apply to any other funds which you may have available to fund administrative costs.

Section 917(c) of the Act requires that not more than 15 percent of any amount appropriated for any fiscal year for the Corporation may be used for administrative expenses. The language explicitly applies the restriction to amounts appropriated and does not address non-appropriated sources of funds which may be available to the Corporation. The Committee did not intend this provision to result in any elimination of vitally-needed existing staff positions.

Again, I appreciate your request for a clarification of the administrative expense limitation and hope this letter has proven helpful.

Sincerely,

Henry B. Gonzalez
Chairman

QUESTIONS SUBMITTED BY SENATOR LEAHY

Pension Fund Investment in the Secondary Market

Question: Your prepared statement mentions a first-time NHSA security placement in FY 1991 with the Lutheran pension fund. This strikes me as a productive new area of interest for NHSA. Are efforts now in progress to make future placements with additional pension funds?

Answer: The recent purchase by The Board of Pensions of the Evangelical Lutheran Church in America of a $2,000,000 NHSA security is very promising. Pension funds must receive a market- rate return. They have selected a rate slightly above GNMA's with a 25-year term. This purchase also enables NHSA to purchase loans made on NeighborWorks organization-owned multifamily properties. These loans are bought without recourse; thus, Neighborhood Housing Services of America assumes the collateral risk. Neighborhood Reinvestment also places funds in a cash reserve equal to 10% of the security to secure the agreement.

Thus, while this approach is productive, its cost to both the end consumer -- the tenant and the NeighborWorks organizations-- and to Neighborhood Reinvestment in cash reserve requirements limits the number of these agreements that can be secured as well as their usefulness. What would be ideal is placement of a cash reserve large enough to generate an interest subsidy. This would result in a reduced consumer cost, thus increasing activity, and attract more pension funds.

Currently, we are in discussion with The General Board of Pensions of the United Methodist Church for a $5,000,000 security similar to the Lutheran security. At the moment, we do not have the requisite cash reserve funds. We are fundraising to secure them. A fuller picture of the relationship between securities and cash reserves follows.

Neighborhood Housing Services of America FY 1991 Budget

Operating - $3,174,000 71% Supported by Neighborhood Reinvestment

Proposed Direct Outside Investments to NHSA in FY 1991 by Type of Investment

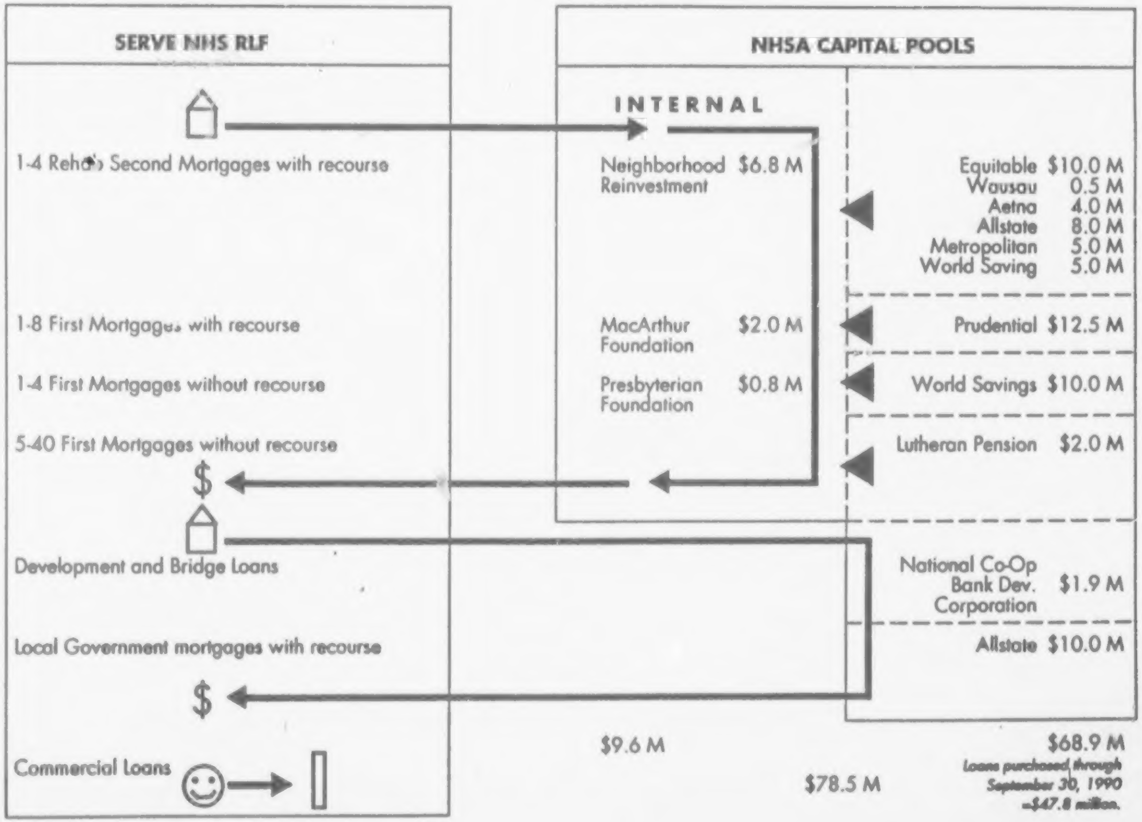
INVESTOR	SPECIAL SECONDARY	FIRST MORTGAGES	MULTI FAMILY	TOTAL INVESTMENTS
Prudential	—	$2,250,000	—	$2,250,000
World Savings	$4,000,000	4,000,000	—	8,000,000
National Coop Bank	—	—	1,900,000	1,900,000
Allstate	1,000,000	—	—	1,000,000
Methodists	—	—	1,250,000	1,250,000
Lutherans	—	250,000	750,000	1,000,000
TOTAL PROPOSED	$5,000,000	$6,500,000	$3,900,000	$15,400,000

Subsidy and Reserve Requirements for Above Investments:

	SPECIAL SECONDARY	FIRST MORTGAGES	MULTI FAMILY	TOTAL
Prudential	—	$225,000	—	$ 225,000
World Savings	200,000	400,000	—	600,000
National Coop Bank	—	—	285,000	285,000
Allstate	200,000	—	—	200,000
Methodists Pension	—	—	125,000	125,000
Lutherans Pension	—	37,500	112,500	150,000
TOTAL PROPOSED	$400,000	$662,500	$522,500	$1,585,000

Capital grants of $1.2 million from Neighborhood Reinvestment funds a portion of the above subsidy and reserve requirements. The remaining $385,000 is yet to be identified.

NHSA Secondary Market Loan Products


SERVE NHS RLF
1-4 Rehab Second Mortgages with recourse
1-8 First Mortgages with recourse
1-4 First Mortgages without recourse
5-40 First Mortgages without recourse
$
Development and Bridge Loans
Local Government mortgages with recourse
$
Commercial Loans
NHSA CAPITAL POOLS
INTERNAL
Neighborhood Reinvestment $6.8 M
MacArthur Foundation $2.0 M
Presbyterian Foundation $0.8 M
Equitable $10.0 M
Wausau 0.5 M
Aetna 4.0 M
Allstate 8.0 M
Metropolitan 5.0 M
World Saving 5.0 M
Prudential $12.5 M
World Savings $10.0 M
Lutheran Pension $2.0 M
National Co-Op Bank Dev. Corporation $1.9 M
Allstate $10.0 M
$9.6 M
$78.5 M
$68.9 M
Loans purchased through September 30, 1990 =$47.8 million.

Revolving Loan Fund Purchases from Vermont

Question: I read with interest in your statement of increased Neighborhood Reinvestment activity in rural areas and in the expansion of NHSA secondary market activity. What was the level of annual purchases of local revolving loan fund loans in Vermont by NHSA in fiscal years 1988, 1989 and 1990?

Answer: The level of purchases for fiscal years 1988, 1989 and 1990 from Vermont NeighborWorks organizations is as follows:

FY 1988	Rutland West	$111,300
FY 1989	No purchases were made from these programs	
FY 1990	Rutland West	$102,230
	Randolph	$ 54,330

Prior to FY 1988, NHSA had purchased $72,530 in loans from Randolph and $73,000 from Barre NHS.

Homeownership Initiative in Vermont

Question: Have any of the local Vermont NHS programs sought to participate in the special homeownership initiative that began in FY 1989? If so, what has been the outcome?

Answer: Barre and the four communities served by Rutland West NHS have all benefitted from Neighborhood Reinvestment's assistance in homeownership promotion strategies. Starting in Fair Haven, the Rutland West organization has just implemented a purchase, rehab and sale program for first-time homebuyers. Training, technical assistance and a $15,000 grant from Neighborhood Reinvestment (part for downpayment assistance and part for a revolving acquisition fund) got the program started. At this point, other partners have joined the effort, including the University of Vermont Extension program, which is co-sponsoring a homebuyers training series with the NHS.

In Barre, our $15,000 grant provided assistance in a purchase and resale program which initially converted five single and duplex structures to resident ownership. Primary needs in Barre were for financial counseling for prospective homebuyers and for limited downpayment assistance.

Capacity Building in Vermont

Question: In its plan to focus efforts in FY 1991 on building the capacity of local organizations, does Neighborhood Reinvestment have any specific plans to work with particular Vermont organizations?

Answer: There are two major capacity-building projects underway with our assistance in Vermont. At present Rutland West NHS has been asked to provide services to four adjacent communities, a venture which requires additional loan fund resources not readily available locally. A $75,000 grant from Neighborhood

Reinvestment will provide initial expansion capital and will allow flexible use, across town lines, of this pool of funds for loans to residents. State funds do not currently have this kind of flexibility. This expansion will also make NHSA funds available to four new communities in the State.

In addition, our district staff are working with all three of the existing Vermont NHS organizations on a state-wide assessment process that is designed to identify potential new sources of funding as well as to follow up on other Vermont communities that have expressed interest in establishing NHS partnerships.

Fiscal Year 1991 Grant Funds

Question: I am pleased to hear that Neighborhood Reinvestment has "generated a modest increase in grant funds for local programs in FY 1991." On what basis will these funds be made available to local organizations? Have any Vermont organizations applied for, and shown interest in applying for, these grant funds?

Answer: Our grant funds are primarily available on a competitive basis. With the exception of affordable housing and emergency funds, which are available more frequently, network organizations apply for funds on an annual basis. Applications are evaluated by our district directors and field staff based on feasibility, appropriateness to mission, staff capacity, Board support and availability of other funds. Vermont NHS programs have historically been both aggressive and successful in applications for our funds.

This year, we have provided the following grants to Vermont NHS programs:

1) Rutland West - $11,000 for administrative costs related to expansion to Middletown Springs, West Haven, Ira and Benson, including an intern to assist in data collection and resident surveys.

- $75,000 to assist in capitalizing a loan fund for these new communities and to leverage additional loan dollars from Farmers Home.

2) Barre - $10,000 for costs associated with providing financial counseling to first-time homebuyers.

Randolph made no requests for grants this year but continues to take aggressive advantage of all Neighborhood Reinvestment- sponsored training at the district and national level and of the NHSA loan purchase program.

QUESTIONS SUBMITTED BY SENATOR KERREY

NeighborWorks Activity in Nebraska

Question: Please bring me up to date on your activities in Nebraska.

Answer: Both Lincoln and Omaha, Nebraska, have been active this year. The Omaha NHS, which has had recent difficulties in retaining a qualified executive director, asked Neighborhood Reinvestment for assistance in assessing the NHS's viability and future directions. While our ability to respond was initially hampered because we were in the process of recruiting a new district director, an assessment in Omaha became the welcome first task of our new district director who was born and raised in Omaha. Preliminary indications are that there is significant need and demand for the kind of services NHS offers and a great deal of local support to continue NHS. Neighborhood Reinvestment has set aside $25,000 to support a restructuring effort in Omaha, which will refocus and redesign NHS services and bring new and reinvigorated leadership to the NHS Board.

Currently, Lincoln is the site of an exciting homeownership initiative. The Lincoln NHS has elected to purchase and rehab vacant, deteriorated single-family homes and sell them at very affordable prices to first-time homebuyers. The NHS's first 17 properties have been identified and five financing partners, including a local S&L, the Nebraska Investment Financing Authority, the city, and Neighborhood Reinvestment and NHSA, will participate.

The Lincoln NHS is also undertaking a joint venture with a local private developer to provide 30 affordable rental units in its target neighborhood.

Revolving Loan Fund Default Experience

Question: Your average revolving loan fund borrower has a family income 53 percent of the national median. What has been your experience with defaults over the long term? Over the last year?

Answer: With respect to delinquency and default information, we have data from two sources: the secondary market operated by NHSA, and the local NHS programs.

The rate of NHSA-purchased loans for 3 months delinquency is 1.9 percent. Part of the reason for this low rate is that NHSs must substitute performing loans for delinquent loans and, thus, tend to sell only their most consistent "payers".

NHSs' revolving loan fund clients are by definition unbankable. Their average family income is $18,100 (53 percent of the national median). An NHS's primary mission is to revitalize the neighborhood for the benefit of the existing residents. Thus, forbearance and restructuring of a loan are preferred methods for dealing with substantial delinquency. If a borrower is irresponsibly delinquent, the NHS will declare default and foreclose, if necessary. The delinquency rates for 1989 follow. The 1990 information will be available later this spring.

o 1 month delinquent	6.9%
o 2 months delinquent	3.6%
o 3 months delinquent	13.7%
o default rate	1.6%

Profile of Multi-Family Properties

Question: Could you give me a profile or some indication of the types of multifamily properties you intend to purchase loans on through NeighborWorks?

Answer: We plan to facilitate the purchase of approximately $3.9 million in loans on multifamily properties owned by NeighborWorks organizations or by a closely related nonprofit organization.

The property must provide housing which is affordable, at a minimum, to households below 80% of the area median income. Because resources for this purpose are very limited, generally first-mortgage loans are available for small developments of 5 to 32 units, although second-mortgage loans will be considered for larger properties where the second mortgage is covering a small gap in the available financing.

Availability of Foreclosed Property

Question: You refer to the availability of foreclosed real estate. What is the source of most of this foreclosed real estate? Is it in any one section of the country?

Answer: We conducted a survey during February-April 1990 of foreclosed vacant properties located in neighborhoods served by NeighborWorks organizations. The result of this survey shows that 55% of all reported vacancies were single-family, 19% were 2-4 family, and 26% were multifamily housing units. In terms of the title-holder of these properties, 17% were owned by private financial institutions, 25% were owned by government institutions, and 58% were owned by individuals and others. A large majority of the responding NHSs and AIPs have reported the existence of vacant units in their neighborhoods. The extent of vacancy, however, varied significantly. The following organizations, among others, have reported a high-vacancy rate (exceeding 6%) in their neighborhoods:

- Anchorage, Alaska NHS
- Birmingham, Alabama AIP
- Charlotte, North Carolina NHS
- Dallas, Texas NHS
- Jackson, Mississippi NHS
- Lafayette, Louisiana NHS
- Minneapolis, Minnesota Northside NHS
- Pittsburgh, Pennsylvania NHS
- Stamford, Connecticut NHS

Expanding Service in Rural Areas

Question: You indicate that you expect increased interest in Neighborhood Housing Services by rural areas. To what extent are you currently serving rural areas? How do you expect to expand upon this?

Answer: Rural and small city programs currently comprise 11% of our membership and last year received 7.1% of our grant resources. We continue to respond aggressively to requests from rural areas and are currently engaged in a number of efforts which will maximize the use of our resources in serving rural sites. In West Virginia, we have embarked on a state-wide strategy that will develop a nonprofit organization to serve rural communities directly as well as provide additional resources for the existing network of nonprofit service providers in the State. In Maine, we are working with the State Department of Housing to identify the sites and strategies which are most appropriate to our resources and to the rural character of the State of Maine.

Rural community housing needs will continue to be an important part of our focus and attention and we will continue to explore new and promising strategies to best use our resources in rural environments and to leverage other support.

QUESTIONS SUBMITTED BY SENATOR GARN

Impact of S&L Crisis

Question: A great deal of attention has been focused on the financial difficulty experienced by the savings and loan industry and now, banks as well. Since these institutions have traditionally played a significant role in assisting NHS communities, have you seen any reduction in their participation in the activities you sponsor?

Answer: The history of financial institution involvement in NHS neighborhoods has been characterized by significant personal and financial commitment on the part of local S&Ls. Local S&L CEOs and Officers have participated actively on NHS Boards and loan committees and have developed an intimate familiarity with NHS neighborhoods. This has had the overall effect of increasing bankable lending and providing lenders with a much clearer sense of good business opportunities in the community.

The current S&L crisis has challenged both the personal and financial relationships between banks and NHS communities. On the personal level, as financial institutions have consolidated or grown in size and scope of services, it is increasingly difficult for NHS Boards and committees to attract bankers who are at a decision-making level in their institutions. Our network has also experienced extensive turnover in industry representation as lenders have become more mobile within and among institutions. This is particularly noteworthy at the Board and loan committee level where the benefits, to all parties, of consistent participation by high-level lenders have been substantial. The lack of this participation represents a significant loss to our effort.

Relative to bankable lending activity, two effects are most apparent. First, the capacity of troubled financial institutions to respond aggressively to community lending needs has been severely constrained. Consequently, special programs undertaken by local lending institutions, often in conjunction with NHS, to increase loan applications have diminished in number, especially in the Northeast and Southwest.

Moreover, over the past five years, the relative size of contributions to NeighborWorks organizations made by thrifts (savings banks, savings & loan associations, credit unions) has declined significantly. Contributions from thrifts made up 10.5% of the operating budgets of NeighborWorks organizations in 1985 and 5.6% in 1989, a decline of almost 50%.

In spite of the challenges posed by the S&L crisis, our network intends to insure that bankable lending remains a cornerstone of our neighborhood revitalization approach by an aggressive effort to maintain the consistent, personal involvement of concerned lenders and to promote regular ongoing dialogue between the lending community and the neighborhoods it serves.

Use of Affordable Housing Program

Question: FIRREA created the Federal Housing Finance Board which administers the Affordable Housing Program which is funded by the 12 Federal Home Loan Banks. I understand that there have been two funding rounds to date of this program totalling $1.2 billion of affordable housing, leveraged by $80 million from those home loan banks. To what extent are NHS communities involved in the Affordable Housing Program?

Answer: Twenty-six NeighborWorks organizations are involved in a total of thirty-six projects funded under the two 1990 rounds of the Affordable Housing Program. The majority of the projects focus on low- and moderate-income homeownership. Additionally, several rental projects are among these awards, including a project in Cambridge, Massachusetts, to purchase and rehab a 9-unit building for low-income and homeless families. Six of the projects involve converting a total of 771 rental units into mutual housing. All of these units are in buildings that are either in foreclosure or are about to be foreclosed. Nearly 500 of these units are in buildings currently owned by the Resolution Trust Corporation.

In addition, Neighborhood Housing Services of America (NHSA) is working with World Savings and Loan of Oakland, California, to provide $15 million in affordable single-family homeownership financing in 38 NeighborWorks cities through the Affordable Housing Program. The program combines the financial and construction services of the NeighborWorks organizations with a new, affordable first-mortgage loan and private-mortgage insurance program. Affordable Housing Program funds will bring more than $3 million in interest-rate savings to the program.

NATIONAL INSTITUTE OF BUILDING SCIENCES

STATEMENT OF WILLIAM KING, CHAIRMAN, BOARD OF DIRECTORS

ACCOMPANIED BY:

ROBERT GIBSON, VICE CHAIRMAN, BOARD OF DIRECTORS
DAVID HARRIS, PRESIDENT
JOHN LLOYD, CONTROLLER

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The last organization we will discuss today is the National Institute of Building Sciences. NIBS was created by Congress in 1974 with a variety of tasks, such as facilitating the introduction of new technologies into the building industry. Over the years, the value and quality of NIBS efforts have been widely acknowledged, so that is not an issue.

The issue that this subcommittee has had to face in the past years is whether a Federal appropriation can be given where there is no authorization. The authorization for the appropriation has lapsed and the legislation that created NIBS indicated that NIBS should be financially self-sufficient.

For fiscal year 1991, Congress did not provide an appropriation. However, Congress did authorize an appropriation of $534,000 for NIBS in 1992, but the administration's budget does not request the funding for this year.

So my questions today, along with several others that I will submit for the record, are geared to helping the subcommittee determine essentially what we should be doing: How important are the Federal funds? Especially, how important are Federal funds to NIBS' mission and survival? Are there other options, such as a reduced mission or other revenue sources.

But our problem is that we are acting without an authorization, and that gets stickier and stickier. So why do I not ask you then to just proceed in any way you like, knowing at the same time that we acknowledge the very valuable contribution NIBS has made. Gentlemen.

INTRODUCTIONS

Mr. KING. Thank you, Madam Chair. We have been asked to keep our remarks to 5 minutes and we will try and do that.

I am William King, the Chairman of the Board of Directors of NIBS, and with me are: on my right, Bob Gibson, who is the Vice Chairman of the Board; on my immediate left, David Harris, who is the President; and on the far left, John Lloyd, who is our Controller.

We have delivered to the subcommittee copies of our financial statements for fiscal year 1990, our budget for fiscal 1991, and written testimony that covers in detail the most recently completed projects and the current activities of the Institute.

NIBS FUNDING

When we appeared before you last year, you stressed the need for the Institute to find ways to become financially independent. Although we continue to believe that some Federal Government financing is justified and necessary in order for NIBS to accomplish the mission we were given when the Institute was created by the Congress, we have taken steps to aggressively work toward achieving the goal of becoming financially independent.

The only way that we can accomplish this goal is to increase voluntary contributions to offset the loss of Federal appropriations. Unfortunately, the recession has hit the construction and housing-related markets harder than almost any other segment of the economy, and therefore has left us in a very difficult position in being able to increase private contributions.

Many of the people who have supported the Institute in the past have had to seriously curtail their expenditures. Some are in bankruptcy.

The downturn of the economy has also hurt the Institute's financial position, because the very Federal agencies who supply the bulk of our contract work have cut back on their expenditures and the Federal construction program, as you know, has been greatly curtailed.

This situation is ironic and somewhat tragic in the sense that at this time, when we are under the greatest financial stress, frankly, we feel there is greater need for the services the Institute can provide than at any other time since the Institute was formed.

In short, although the Board of Directors is committed to continuing our efforts to seek financial independence, we feel we have an obligation to advise the Congress and those responsible for our activities that if we are not able to secure some financial assistance in either fiscal 1991 or fiscal 1992, the Institute's ability to continue to accomplish its mission will be put in great jeopardy.

In the limited time that we have left, I have asked David Harris, our President, to talk to you about the projects that we feel need to be funded, and for which we would use any Federal funds that you might be free to appropriate to us.

[The statement follows:]

STATEMENT OF WILLIAM KING

Madam Chair and members of the Subcommittee I am William King, chairman of the board of directors of the National Institute of Building Sciences (NIBS). With me today are Robert Gibson, the vice chairman, David Harris, the president; and John Lloyd, the controller. We are pleased to have the opportunity to testify before your Subcommittee today.

We have delivered to the Subcommittee our financial statements for the fiscal year ended September 30, 1990, our FY-91 budget, other financial information, and copies of our written testimony which covers in detail the projects and programs we conducted this past year and a Programs and Projects summary describing work recently completed and presently underway.

BACKGROUND ABOUT THE INSTITUTE

The 1968 report of the President's Commission on Urban Problems recommended the creation of the National Institute of Building Sciences (NIBS) to help resolve national concerns related to the evaluation, use and regulation of existing and new building and housing technology. In 1974 the Congress responded to the Commission's recommendations by passing Public Law 93-383, which authorized the Institute's formation.

NIBS' board of directors, in response to P.L. 93-383 established the following concise mission statement for the Institute:

> The National Institute of Building Sciences serves the public interest by promoting a more rational regulatory environment for the building community, by facilitating the introduction of new and innovative technology, and by disseminating nationally-recognized technical information.

These fundamental tasks are accomplished by recommending and coordinating legislative, regulatory, and standards initiatives; initiating programs to facilitate the development and use of technical criteria with which to evaluate building performance; encouraging the appraisal and acceptance of new building products, methods, and technology; by conducting needed and related investigations; and by promoting and carrying out information and technology transfer programs.

To fulfill these objectives, the Institute, a private, nonprofit organization, utilizes its unique capabilities to be an objective interface between the government and the private sector, and to provide a balanced and representative national voluntary forum within which to assemble the nation's knowledgeable and experienced practitioners to identify, study, and resolve building and housing issues in the national interest.
Congress found that "the lack of an authoritative national source to make findings and to advise both the public and private sectors of the economy with respect to the use of building science and technology in achieving nationally acceptable standards and other technical provisions for use in federal, state and local housing and building regulations is an obstacle to efforts by and imposes severe burdens upon all those who procure, design, construct, use, operate, maintain, and retire physical facilities, and frequently results in the failure to take full advantage of new and useful developments in technology which could improve our living environment... (and) that the existence of a single authoritative nationally recognized institution to provide for the evaluation of new technology could facilitate introduction of such innovations and their acceptance at the federal, state and local levels."

The challenge Congress assigned the Institute is acknowledged to be exceedingly difficult. The Institute's founding board and subsequent boards recognize this assignment involves bringing together the many disparate sectors of the building community, as it is these sectors that must be involved if we are to plan and implement a more rational building regulatory process. NIBS holds no regulatory authority, nor would its chances of success in the long term be enhanced by such a power. Because of the Constitutional structure of the building regulatory process and well established and evolved organizational activities, NIBS' long term success is dependent on cooperative actions rather than the threat of regulation.

The Institute's board of directors is a voluntary body provided for in the authorizing legislation. For 1991, the board reelected William B. King, director of government relations for Armstrong World Industries, as chairman; Robert C. Gibson, P.E., a past president of the National Society of Professional Engineers, and chairman and chief executive officer of the architectural and engineering firm, Clark, Nexsen, Owen, Barbieri, Gibson, P.C. in Norfolk, Va., to be vice chairman; Dr. Carol B. Meeks, a professor in the College of Family and Consumer Sciences at the University of Georgia, as secretary; and Robert W. Lisle, chairman of Farnham Corporation in Dallas, Texas, as treasurer.

CONSULTATIVE COUNCIL

The Institute's principal link with the building community is its membership arm led by its 36-member Consultative Council. The Council's members are elected for three-year terms by the NIBS' membership-at-large. The membership of the Council is representative of the various interests of the building community and is organized in 12 membership classifications. It is through the Council that balance and representation is established for NIBS' project committees and the consensus process is administered. The Council functions through a committee structure which includes Steering, Operations, and Planning Committees.

MEMBERSHIP

Membership in the Institute remains open to all interested parties as provided in the enabling legislation. The dues and membership structure simplified in 1989 was continued without change in 1990. Membership increased from 655 at the beginning of the fiscal year 1990 to 707 as of October 1990.

THE NEED FOR CONGRESSIONAL FUNDING

A balanced funding program for the Institute is vital to assure no single group can dominate or hold undue influence over NIBS' work. This balance also assures the maintenance and free exchange of information and views between the private and public sectors. In recent years the Institute has effectively used Congressionally appropriated funds to carry out projects of significant benefit to the public. In fiscal year 1990, the Institute received $492,000 as direct support on a matching basis against NIBS' private income. The Institute used those funds to conduct or defray the costs of the following programs:

- Conducting a national symposium on Title III, Public Accommodations, of the recently passed Public Law 101-336, the Americans with Disabilities Act (ADA). The purpose of the symposium was to find ways to integrate the dissemination of accurate information about the ADA, and to facilitate use of the nation's building code and permit process as a practical means to enforce the law;

- Assisting the Environmental Protection Agency to develop criteria to define techniques with which to reduce radon levels in new single-family and other low-rise residential buildings;

- Preparing an approach with which to develop guide specifications for the testing, abatement, clean-up, and disposal of lead-based paint in homes and buildings;

- Developing a long term planning process through which to identify and conduct continuing improvements in the building regulatory and technological assessment process;

- Continuing the development of a consensus based design guide on air infiltration and heat and moisture transfer control for the Public Buildings Service of the General Services Administration;
- Commencing a study to compare the provisions of the Life Safety Code and the three model building codes, to determine the extent of substantive technical differences which may lead to duplication, overlap, and conflict in standards governing health care facilities;
- Adding new provisions on abatement of non-friable asbestos containing building materials to the Institute's Asbestos Abatement Guide Specifications;
- Hosting a round table to plan and coordinate appropriate national initiatives to insure the nation maintains a leadership role in the international community with respect to building and construction standards, product testing, and certification;
- Adding new features to NIBS' Construction Criteria Base, increasing the content on the system to 400,000 pages of technical criteria, and involving over 100 public and private organizations;
- Completing and publishing a Land-Use Regulations Handbook for use by the non-technical individuals involved in the land-use and zoning processes at the local level to improve the understanding and use of innovative land use techniques to facilitate increased use of sound environmental methods, conserve land resources, and reduce the cost of residential construction; and
- Supporting the work of the Building Thermal Envelope Coordinating Council and the Wood Protection Council, separate councils operating under the NIBS' auspices.

Since several of these programs are multi-year efforts, additional funds will be needed to complete fixed them and realize meaningful benefits. The lack of continued funding from the Congress during 1991 has already hampered progress on some of these programs.

The Institute and its members appreciate Congress' support in past years and respectfully ask for reinstatement of these funds at the same levels in fiscal year 1992 and action to provide funding in equal amounts for the remainder of fiscal year 1991. Now that authorizing legislation is in place, new responsibilities are assigned to the Institute, and more severe pressures have been placed on the building community as a result of the recession which as is typically the case, is more severely impacting the building community than other segments of the economy.

The Congress, in the 1990 Affordable Housing Act, assigned NIBS new responsibilities in relationship to the Advanced Building Technology Program. This program has great potential to provide an innovative mechanism with which to identify, evaluate and utilize new building technologies in federal government programs and in the private sector. Such programs are in use in foreign countries and could enable the United States to create an excellent avenue along which to foster the development of building and housing technology. However, such a program will not be developed without adequate resources. The Cranston-Gonzalez National Affordable Housing Act includes numerous programs with great potential. A cooperative effort is needed to plan and implement these activities to assure the public and private actions intended by the Congress are implemented in a coordinated and effective manner.

Consultative Council programs carried out during 1990 include:

ASBESTOS IN BUILDINGS

The federal government has determined that breathing airborne asbestos fibers constitute a health risk. It emphasizes that asbestos-containing building materials, in good condition and undisturbed, are not necessarily a health hazard. As a result, the need for practical technical guidance on how to properly deal with potential health problems of asbestos in buildings has grown dramatically.

The extensive amount of information concerning asbestos reaching the public resulted in a period of fear by the public that removal of all asbestos was warranted, indeed necessary. More recently, new views on this position have undergone extensive discussion among the health science community and the federal government now supports management of stable asbestos-containing materials in place as the preferred action.

NIBS' 1986 guide, Asbestos Abatement and Management in Buildings: Model Guide Specifications, provided pragmatic technical information to help those in the housing and building industry objectively deal with the problem. It remains one of the most widely used technical documents on asbestos abatement and maintenance and repair in buildings. In addition to its use by designers, environmental consultants, building owners and others, it is used as a text for many training courses.

The 1988 edition of the guide incorporated requirements resulting from new federal regulations and provisions for new products, equipment and procedures, and refinements in existing practices for asbestos abatement, maintenance and repair. Several thousand copies of this edition have been disseminated. Additional work was performed in 1990 to develop sections on non-friable asbestos-containing materials like flooring, roofing shingles, and exterior siding. These sections and a new introduction are now undergoing review and are expected to be published soon.

Later this year, in cooperation with the Environmental Protection Agency, the Institute expects to begin the development of a technical procedures manual for managing asbestos in existing buildings. The guide will provide detailed step-by-step procedures for individuals responsible to manage buildings as well as those actually conducting the work, either as employees or under contract. One of the new manual's objectives is to protect workers, which due to their assignments, are more likely to come in frequent contact with asbestos. The guide represent years of intensive work by a NIBS' members.

LEAD-BASED PAINT

The Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing, released last year by HUD, estimates that lead-based paint exists in 57 million of the nation's homes. Lead-based paint health hazards in housing, although first discovered nearly a century ago, have been virtually unaddressed until recently. The U.S. government banned the use of lead in paints used for residential purposes in the 1970s. But before that lead-based paint was widely used in home construction and maintenance.

Health scientists agree that lead causes serious toxic effects in the human body. Those most at risk from the consequences of exposure to lead are infants and children under the age of seven, and women of child bearing age. Studies indicate that excessive levels of lead in the bloodstream can hamper a child's mental and physical development, resulting in such side effects as a lower intelligence quotient, slower physical reaction times, and a shortened attention span. In worst case scenarios, convulsions, comas and death have been known to occur. Between 1976 and 1980, more than 780,000 American preschool children had excessive levels of lead in their blood, according to the American Academy of Pediatrics. In middle aged males, recent studies have indicated an association between blood-lead levels and increased blood pressure.

Today, lead-containing paint, water, soil and dust are believed to be the major sources of lead contaminants. Typically, in a housing unit, the primary manner in which lead enters the human body is believed to be through dust particles containing lead which fall on window sills and throughout the house. The dust is then picked up on the fingers and ingested, especially by young children--those most at risk.

Federal attention to this problem goes back to 1971, when Congress passed the Lead-Based Paint Poisoning Prevention Act (LBPPPA), thereby prohibiting the use of lead-based paint (LBP) in residential structures constructed or rehabilitated by the federal government or with federal assistance. Subsequent amendments to the LBPPPA directed the federal government to establish procedures to eliminate LBP poisoning in housing constructed before 1950, covered by mortgage insurance or housing assistance payments.

NIBS' effort began in 1987, when it convened a task force to define the current issues and recommend appropriate action. The task force outlined a number of recommendations. One was a call for the development of technical guidelines for abating the LBP hazard.

In late 1988 and early 1989, NIBS, under contract to HUD, drafted technical guidelines for the testing, abatement, clean-up and disposal of LBP during an intensive six-month program. These guidelines were developed by a project committee using NIBS' consensus process. NIBS' committee was comprised of some of the nation's leading experts on lead-based paint. The committee also included those who would need the guidance--designers, housing remodelers, contractors, testing agents and owners to insure the guide contained the information needed.

The 72-member project committee oversaw the production of a technical guide which prescribed current methods used to 1) test for lead in paint, 2) abate various types of LBP-containing surfaces and surface conditions, 3) protect workers and building residents, 4) clean-up lead-contaminated residue, and 5) properly dispose of resulting waste. In March 1989, the final 238-page document, entitled Lead-Based Paint Testing, Abatement, Cleanup and Disposal Guidelines, was submitted to HUD. HUD requested that NIBS not release this Guide to the public.

The NIBS Guide, was used by HUD to develop its September 1990 document, Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing. The lead-based paint problem suffers from the lack of definitive health standards for worker protection and clearance levels of lead-bearing dust in abated units. Although OSHA is working on the worker protection standard, it is recommended the federal government address the latter need as soon as possible.

As useful as the long awaited HUD Interim Guide is, it is not intended to, and cannot serve as a direct tool to design professionals and contractors to define the scope and responsibilities of parties to lead-based paint testing and abatement contracts for an individual home or multi-unit housing authorities. NIBS' asbestos abatement guide specifications have ably served this need for asbestos and have been used as an excellent training tool as well. We are aware of problems in the field where bids for lead abatement projects have ranges that leave owners in a dilemma of not which contractor to hire, but whether or not to award a contract at all. For example, in one project, bids ranged from $7,000 to $120,000. The reason for this tragic range of bids--poor specifications.

If one assumes that five billion dollars were to be spent annually on lead-based paint testing and abatement in this country, and no comprehensive procurement guide to aid the purchase of the services were available, the impact of the example noted above would be a horrible and unnecessary result. If a guide specification accompanied by proper training would save just ten percent (a conservative estimate) of this cost $500 million would be saved each year. Clearly, this savings more than justifies the estimated $170,000 cost to develop the guide specifications.

HUD and EPA are the primary federal agencies with funds and responsibilities for this issue. The Institute's request to these agencies to fund the development of a guide specification for testing and abatement of lead-based paint in buildings has not yet been accepted. While they describe their budgets as spare, some funds are available. If practical tools like guide specifications, a tool available for virtually all other construction activities, aren't made available to the industry expected to provide the services already determined to be needed by the Congress, the potential exists for HUD's Comprehensive Modernization Program and private home remodeling markets to become mired in lead related litigation. As serious as that problem may be, the potential harm to the nation's children if lead-based paint testing and abatement work is improperly conducted, would be even more tragic.

GSA TECHNOLOGY AND INFORMATION TRANSFER

The General Services Administration's Public Buildings Service (PBS) is responsible for more than 200 million square feet of workspace housing nearly one million federal employees. In discharging this responsibility, PBS generates large amounts of technical information, which is used by PBS staff and outside contractors in the planning, design, construction, operation and maintenance of Federal facilities.

One of nine Strategic Statements included in PBS' January 1990 Strategic Plan asserts that "PBS will take a more active role in adapting new, proven technologies and supporting innovation and research to incorporate changing technological developments in the provision of services to our clients". A specific step toward that objective as identified in the Strategic Plan Statement is to "develop a formal system for translating established research or lessons learned into standards and criteria for direct use by PBS."

The National Institute of Building Sciences was retained to identify the resources that were currently available in the PBS, to determine where improvements in the transfer of technical information were needed, and to develop recommendations for an improved technical information transfer system.

This effort involved identifying and analyzing numerous PBS documents that provide information on new technologies and lessons learned within PBS, and the PBS standards and criteria documents that are derived from PBS staff experience and lessons learned. The study also covered the procedures followed in the development and maintenance of PBS standards and criteria. Interviews were conducted with PBS Central Office and National Capital Region Office personnel, representatives of other federal agencies, and private organizations responsible for significant facility planning, design, construction, operation and maintenance programs.

The status reports regularly produces by PBS operating units often contain valuable lessons learned and other technical information with a wide range of applications. PBS also develops and promulgates a series of official documents which provide guidance to PBS staff members and outside contractors. In addition PBS also uses a number of standards and criteria documents produced by other federal agencies and private organizations.

NIBS found that PBS can make better use of the lessons learned and other useful technical information included in its survey and reports to update its standards and criteria documents. This would require providing a more effective means for compiling and disseminating report documents to the responsible staff, providing suitable personnel and procedures for regularly performing the update functions, and improving the dissemination of revised standards and criteria documents both internally and externally. Other improvements can be made by archiving important survey and report documents for reference purposes, and by making PBS referenced standards and criteria, produced by other organizations, available in a central location.

Improvements in these areas would be facilitated by utilizing suitable electronic means for storing and disseminating the documents, particularly where this included appropriate information search and retrieval capabilities.

While a number of alternative media were reviewed to identify the most suitable means for storing and disseminating PBS technical information, optical compact discs were selected as the most appropriate. This technology offers the greatest advantage in terms of cost, convenience, durability, ease of use, and ease of update.

The technology transfer system recommended for use by PBS includes procedures for the generation and archiving of selected PBS surveys and reports on a special PBS Reference Disc, and the updating and dissemination of PBS standards and criteria documents, with other related Federal and industry standard documents, on the existing NIBS Construction Criteria Base compact disc.

The recommended PBS technology transfer system can be implemented over a twelve-month period and benefits will be derived almost immediately.

RADON

The U.S. Environmental Protection Agency (EPA) estimates that from 5,000 to 20,000 lung cancer deaths per year in the U.S. are caused by exposure to radon, a colorless, odorless, tasteless, radioactive gas that occurs naturally in soil, underground water, and outdoor air. According to the EPA, soil gas entering homes through exposed soil in crawl spaces, through cracks and openings in slab-on-grade floors and through below grade walls and floors are the primary radon sources.

Radon levels in homes across the country vary extensively. While many agree that action is needed, concern over unnecessarily increasing the cost of new housing cannot be overlooked. Especially, since the probability that a home will have a radon problem cannot be accurately predicted.

In response to a 1989 EPA request, in 1990 NIBS completed its work to advise the EPA on the development of proposed construction standards and techniques for controlling radon levels in new buildings. Public Law 100-551 required model standards and techniques to be made available by EPA to the public by June 1, 1990.

Effective radon control in buildings involves modifications to many current building materials, systems and methods. In addition to the radon related role of these components, they also function to meet a host of other needs such as structural integrity, fire safety, moisture control, and ventilation. Thus, it is imperative that modifications in components of a home intended to reduce radon infiltration avoid negative effects on the component's performance for other needs.

Standards and building codes have been developed and refined over the years to respond to these needs. In addressing the radon problem, it is critical to avoid both negating what has been achieved in meeting other building performance needs, and creating conflicts between new regulations and existing provisions. Thus, it is important to integrate the knowledge of the nation's radon specialists with the nation's experts in other building performance areas.

Under a cost sharing agreement with the EPA, NIBS was asked to rewrite the EPA's draft document, Model Standards and Techniques for Controlling Radon Levels within New Buildings. To do this, NIBS formed a project committee comprised of federal, state and local model code and standards writing organizations, government officials, product manufacturers, design professionals, contractors, builders, and others with experience and interest in the subject.

NIBS' radon project committee completed its report the content of which is summarized as follows:

1) The document contains guidelines applicable to reducing radon levels in new one and two-family dwellings and other residential structures three stories or less in height.

2) The guidelines are based on radon mitigation experience in a limited number of existing one and two family residential buildings, a small number of schools and non-residential buildings, and on limited data from new residential construction and evaluation projects. Thus, its radon reduction strategies have not been subjected to extensive field testing in new construction. Consequently, there can be no guarantee of achieving predictable indoor radon levels in all types of buildings by using these techniques.

3) Radon reduction in new buildings constructed on basement and slab-on-grade foundations, can be achieved through the following three-step process:

   a) Implementing construction techniques designed to minimize flow of radon bearing soil-gas through potential entry routes (sealing joints, cracks and other penetrations of slabs, floor assemblies and below-grade foundation walls, and providing a soil-gas retarder under floors and on the exterior of below-grade foundation walls).

   b) Installing an active soil-depressurization system or the roughing-in of components of this system that can be completed and activated at a later date if needed.

   c) Using techniques to reduce the heat induced "stack" or "chimney" effect in buildings--a common condition that contributes to indoor air pressure levels that are less than soil-gas pressures, thus causing soil-gas to enter the living space. These techniques include closing between-floor air passages, providing make-up air from outside for combustion and air-exhaust devices, and installing energy conservation features that reduce non-required airflow out of the building.

4) Two construction options are offered as means of reducing radon in new one and two family dwellings and other residential structures not more than three stories in height.

   a) Option 1 is to incorporate during initial construction all applicable radon-resistant construction techniques.

   b) Option 2 is to incorporate those radon-resistant construction techniques that cannot be added easily after completion of the building, and to complete a long-term radon test within one year after initial occupancy to assess the performance of the radon control strategies incorporated into the building. These include radon-resistant construction techniques designed to resist radon entry, including a roughed-in soil-depressurization system.

Due to the limited data and experience with the techniques described in the report, several specific recommendations were incorporated. First, it is strongly recommended the document not be used for regulatory purposes. Second, it is recommended the report not be described as a standard because standards are typically adopted for regulatory purposes in building codes, and because of limited research and testing conducted to date on some of the methods outlined in the document. Another reason for this recommendation is that many of the documents referenced have not been accepted in accordance with a recognized consensus process.

Before regulation is warranted two important issues which relate to the cost/benefit relationship of any such standard need to be addressed. First, the radon hazard varies in intensity from place to place. Concern for housing affordability suggests that any radon reduction measures only be required within mapped radon hazard areas. In order to properly and accurately map areas, it is necessary to develop consensus based technical mapping criteria. Second, the extent of responsibility of the homebuilder needs to be clearly established before these guidelines can be translated into a standard and incorporated into law, rules or codes. Individual states and localities hold the authority to determine builders' responsibilities for new homes meeting a radon level.

Future regulatory actions need to be guided by the fact that potential for a radon problem in a given building cannot be predicted. Even in high hazard areas, only a minority of homes may have a problem. Accordingly, any cost imposed by the standard can only be fully justified in homes with a problem. Thus, care needs to be taken to impose costs where problems actually exist or are reasonably expected to occur. If this care is not taken, unnecessary costs conservatively estimated at $500 million or more per year will be imposed on home buyers nationally.

NIBS' Radon Project Committee determined that its document should be a guideline for several other technical reasons. Current scientific data are inconclusive for determining 1) how to ascertain the number of required pipe penetrations per floor area in contact with the ground in designing a subfloor depressurization system; 2) the effects of different kinds of mechanical systems, the effect of spatial configurations and circulatory patterns on house pressurization differentials; 3) testing procedures to ascertain the performance of soil-gas retarders; and, 4) the performance of radon reduction techniques in crawl spaces.

The Institute's technical report was accepted by written ballot using NIBS' consensus procedures.

BUILDING TECHNOLOGY RESEARCH AGENDA

During 1990 NIBS continued its program to support the building related programs at the National Institute of Standards and Technology. NIST's Centers for Building Technology (CBT) and Fire Research (CFR) conduct non-proprietary research to benefit the housing and building community. In an effort to assure that the federal funds are wisely invested in activities of most use to the building community, NIBS regularly provides a comprehensive technical research agenda for their work pertaining to housing and building.

The recommendations are developed by NIBS by polling the nation's building community to ask what areas of research are the most important in the four specific areas of fire safety research, building materials, building environment and building structures. The more than 120 recommendations submitted are being refined by the nearly 150 members of NIBS' project committee.

Other Institute programs conducted in 1989 included:

CONSTRUCTION CRITERIA BASE

Currently, the federal government's spends nearly $40 billion on design and construction annually. The government's requirements to manage this significant program have been governed through a paper based criteria dissemination program, which has, in recent years, been staggering under its own increasing weight. In addition to the criteria produced by the nearly two dozen federal agencies involved, other criteria are produced by hundreds of trade associations, professional societies, and codes and standards writing organizations. Many of these documents are required by the federal design and construction process. All in all, there are over 5,000 separate criteria documents comprising millions of pages.

The inability of agencies to coordinate these materials, to provide efficient and timely dissemination, avoid duplication and conflict, maintain accuracy and currency, and assure proper cross-referencing has become enormously time consuming and expensive. The ability of designers and contractors to have access to all the current materials required is hampered by the diverse number of publishing organizations and the cost and time required to obtain, and keep the information current. Another major problem has been the inability to research the vast amount of design and construction information with any degree of timeliness and precision. The voluminous amount of non-integrated information used in design and construction contain numerous conflicts, redundancies and alternatives.

NIBS' Construction Criteria Base (CCB) is a new innovation in the development, distribution, and use of design and construction criteria. CCB grew out of research conducted by NIBS in 1986 and supported by the Department of Defense, the Naval Facilities Engineering Command, and the Army Corps of Engineers who requested NIBS' assistance in seeking a solution of their problem.

CCB continues to use CD-ROM (Compact Disc-Read Only Memory) technology to provide immediate, integrated, and comprehensive access to extraordinary quantities of technical information. Included in CCB are specifications, standards, guidelines, manuals, codes, regulations and other design and construction information from multiple federal sources including NAVFAC, COE, VA, NASA, OSHA, GSA, DOE, and a range of private model building code and standards writing organizations.

NIBS' program provides a unique solution which dramatically improves the accuracy and efficiency associated with the distribution and use of relevant design and construction information while increasing the productive use of the data and minimizing waste, overlap and conflicts during design and construction. NIBS' Construction Criteria Base has grown from a 15,000 page collection of federal guide specifications in 1987 to nearly 250,000 pages of technical criteria a year ago, to 750,000 pages today. CCB brings most of the technical information needed for most federal construction projects to those who design and construct facilities valued at approximately $40 billion dollars annually. CCB has become a primary medium to aid the transfer of technology.

Through the use of this state-of-the-art technology, CCB has allowed for the true integration of these widely dispersed information data bases through rapid full text search and retrieval and data manipulation. In addition graphics which are contained in the data bases are incorporated in CCB and can be called up to the computer screen for viewing in small and large scale, and high quality printing.

When it was introduced in 1987, CCB was the first operational CD-ROM system in the construction industry. CCB had approximately 1,000 subscribers in 1990. The program's objectives are to provide a central source of criteria needed for design and construction; provide this source of information at the lowest possible costs in order to increase its dissemination to all sectors of the building community; and to provide state-of-the-art enhancements to increase the usefulness and responsiveness of the information during design and construction.

In 1990, NIBS tripled the amount of criteria on the system, added significantly to the number of federal agencies including information on and using the program, continued the process to add referenced standards from the private sector, included another major model building code system, and improved software features to improve the system's organization and accessibility.

Widely considered a major innovation in the building industry, CCB is revolutionizing the distribution, maintenance, and use of design and construction information and thereby resulting in increased productivity, decreased costs, and a better built environment. This program responds directly to two major parts of the Institute's authorizing legislation: to facilitate the development of new technology and to disseminate technical criteria to the building community.

The Institute's commitment to maintain a system affordable to the nation's design sector which is dominated by small and medium sized firms operating on tight profit margins, the deepening recession, and the moratorium on construction at some federal agencies has slowed sales to prevent CCB from providing a significant source of Institute income. To compensate for this and to take advantage of this remarkable technology, NIBS is considering several new CD-ROM products and innovative ways to fund their development.

In 1990 subscriptions for the CCB have increased but not to the extent expected and needed to continue healthy development of the CCB program without the need for outside funds. The moratorium on some federal construction programs, the deepening recession, and the enormity of the data needed on the system have combined to prevent this program from serving as a significant and primary source of income for NIBS. First, NIBS is committed to providing the service at a cost affordable to the majority of nation's A&E firms, which typically employ only about 8 to 10 professionals. Second, even though it has achieved dramatic success, the program, compared to its potential, is in its relative infancy compared to traditional methods of information transfer. The program needs the reasonable opportunity to grow without being forced into adulthood prematurely.

FOREIGN INFLUENCES IN THE U.S. BUILDING INDUSTRY

The domestic construction volume in 1989 was almost $500 billion, nearly 13% of our Gross Domestic Product, not counting production and transportation of construction materials and equipment. Construction employs over 5.5 million people; thus, it is the largest single industry in the United States.

The public and private sectors of America's housing and building industry spend approximately one twelfth of one percent of their total revenues on research and development. Japan spends approximately two and a half times this amount. It has been reported that in 1989, foreign investors owned 46 percent of the prime commercial real estate in Los Angeles, Calif., 33 percent in Washington, D.C., and 39 percent in Houston, Texas.

In the United States, these facts and figures are generally viewed with a sense of alarm. They are seen as signs that America is losing its world leadership role in design and construction, or that some foreign companies may soon overrun our markets with building products and services. But how justified is this sense of alarm? What does the recent awareness of foreign influences really mean? And, more importantly, what should be done by the public and private sectors to meet these challenges? The answers to such questions are vital to our economy.

The Institute's 1987 foreign influences task force found that this problem was and still is not well understood. The task force's broad approach to the issue addressed six specific areas: research and development, foreign investment, innovation and technology, construction and materials, productivity and quality, and foreign entries into the building industry.

NIBS' 1989 report, "Foreign Influences in the U.S. Building Industry" places the foreign influences issue in perspective with historical and economic trends. Its concluding chapter demonstrates that the issue of foreign influences should be viewed in terms of opportunities to the nation's building industry.

In 1990, the Institute, through a cooperative effort with NIST's Center for Building Technology and Engineering News Record magazine sponsored a national roundtable which examined product approval process, codes and standards, certification, testing procedures, and the licensing of construction and design professionals by the 12 nations of Europe expected to be in effect by 1992.

The conference was initiated to focus national attention on the efforts of the European community to form a unified market unencumbered by regulatory barriers between individual countries. Information brought out during the conference included the following:

1. If the United States expects to have an impact on international standards, more emphasis must be placed on fostering acceptance and use of U.S. standards in foreign countries, especially developing countries.

2. U.S. involvement in the Organization for International Standardization (ISO) must increase significantly. Currently, this country holds the secretariat for only 3 of the 33 construction related ISO technical committees and 43 of 531 technical subcommittees.

3. Most foreign countries subsidize the involvement of their technical experts through government support. As a result, U.S. involvement has considerably less depth of technical capability than the counterpart delegations of much smaller countries.

4. Local code officials in this country need to be able to rely on the testing entities providing information on which approvals are based. If national treaties "require" acceptance of foreign products without such a reliable process, the nation's process to assure building safety could be seriously threatened.

5. Current licensing of design professionals are more stringent than many foreign countries. If we are required to admit less qualified professionals practice as a result of international agreements, the country's requirements for experience, education and examination could be diluted

6. Regardless of the specific actions taken by this country, most agreed the federal government and the private sector organizations responsible for aspects of the nation's standards, testing, certification, and licensing need to work together cooperatively and effectively to assure this country isn't left out of these international activities.

LAND-USE GUIDELINES

While the cost of home construction continues to rise, the cost of the land on which most houses stand is rising even faster. Land costs now represent 25 percent of the total price of a typical single family home in the U.S. In some areas this represents 60 percent. These figures compare to 10 percent in the late 1950s. Growing regulation plays a key role in these cost increases. Restrictions often prevent the developer from making the most efficient use of the land and they reduce the amount of land available.

NIBS' 1987 Land Use Task Force held hearings throughout the U.S. to identify standards, regulations, and methods which reduce costs, and which might be included in guidelines for incorporation into land development codes. The hearings also identified examples of regressive, restrictive and discriminatory practices in the following categories:

- comprehensive planning and zoning techniques
- subdivision regulations
- residential density
- street and parking
- municipal finance for infrastructure
- development of sensitive sites
- the development approval process
- water and sewer installations

Members of the volunteer task force from the fields of planning, architecture, engineering and construction, found that considerable amounts of time and money are being lost in private negotiations, planning commission meetings and zoning hearings because current approaches are often outdated, fragmented, and variable, while more innovative approaches are viewed with suspicion because they aren't understood.

Criteria and standards often adopted or continued by communities without consideration of the range of available alternatives and without consideration of the impact of many of the involved costs. The task force heard that city agencies frequently make decisions that simply shift costs to other departments even though it may lead to overall cost increases. They also heard that developers will ask for variances or changes in regulations to accommodate a project, such as cluster developments and zero lot lines, but these options are not incorporated into regulations to benefit future projects.

NIBS' handbook on land use guidelines was published in 1990 includes chapters on land-development regulations, comprehensive planning, the development review process, residential densities, residential streets, sewer and stormwater management, erosion and sedimentation control, financing infrastructure, designing for sensitive sites, and land-development technology. The document has the potential to bring to the non-technical audience a wealth of knowledge thus permitting them to do a far more effective job of protecting the environment and fostering affordable residential development.

EVALUATING CRITERIA IN THE U.S. COURTS DESIGN GUIDE

The facilities of the federal court system, including hundreds of courtrooms and auxiliary spaces, are unable to keep up with the growing number of legal cases, increased security needs, or accommodate modern technology such as lighting, acoustics, electrical equipment, and automation that is increasingly becoming a part of our nation's judicial system.

In 1989, NIBS began a three-year project for the Administrative Office of the U.S. Courts (AOUSC) to evaluate and update the federal criteria used to dictate how courts are designed and built in the U.S.

The criteria, published in a document called the U.S. Courts Design Guide, is used by the General Services Administration (GSA) in the design and construction of U.S. Court facilities.

Court officials say the results of the NIBS project will affect each of the nation's 630 court facilities as well as those ready for remodeling and ready to be built. In 1990 and 1991, GSA has budgeted for 42 projects costing $1.5 million or more each. These include the rehabilitation of existing court facilities and the construction of at least ten new courthouses.

To plan for this effort, the Institute, under contract with the AOUSC, developed a work plan describing the tasks, time schedules and budgets for evaluating criteria for courts facilities.

The work plan proposes a seven phase project. Phase I includes assembling consultants, developing scopes of work and negotiating contracts. Phase II includes research of courts criteria literature, interviews with departments in AOUSC, Justice Department agencies, and courts personnel, and visits to existing, new and renovated court buildings. Phase III includes data analysis. In phase IV, criteria will be developed, and in phase V these criteria will be reviewed and revised for function and cost. In two phases VI and VII, criteria will be written, reviewed and accepted by the AOUSC Space and Planning Committee and a NIBS advisory group.

In 1989, NIBS performed Phases I and II of the project. NIBS' work was supported by specialty consultants for the overall work and space, furniture and finishes; security equipment; acoustics; mechanical-electrical systems, and automation systems.

Criteria information was developed from studying federal courthouses of different sizes, age, types of tenancy and in more than a dozen geographic locations. In addition, interviews were conducted with numerous court personnel to collect needed data. Data collected in Phase II was used to develop preliminary narrative, and tabulated and graphic information.

NIBS' three-year effort to develop the U.S. Courts Design Guide has progressed to near final stages. The completed draft guide has undergone several iterations of review by U.S. Judicial Conference committee established to perform the primary review function. The final review process and acceptance of the guide is expected to be completed in mid 1991.

COMBUSTION TOXICITY/FIRE HAZARDS

A growing concern of the housing and building community in recent years was the fact that the fire death rate in the U.S. was substantially higher than that of most industrialized nations. Equally upsetting was the fact that toxic smoke was being identified as the principal killer and cause of injury in building fires, particularly residential fires. While per capita deaths due to fire have been on the decline in America, fire deaths attributed to inhalation of toxic smoke remained high, at about 80 percent of all fire related fatalities.

Some believed that a major cause of the U.S. experience was the growing use of man-made materials, especially in the contents of buildings. Others claimed that fires could be adequately controlled through the use of detection and preventive devices. There was confusion stemming from conflicting reports, with no agreement on a course of action. It was also clear that there was no single solution.

For several years, NIBS had followed closely the growing public interest in combustion toxicity of building products and furnishings. In pursuit of its Congressionally authorized role of rationalizing the building regulatory process through the development of performance criteria, the Institute held conferences in 1982 and 1984 in which representatives of some 80 organizations participated. All points of view were brought out in the discussions that took place on use of new techniques, changes in fire death rates and other dynamics of the issue. Conferees concluded that smoke toxicity resulting from fires in buildings was a matter of concern; however, they noted that there was insufficient data on which to base any new form of regulation.

Between 1986 and 1988, the Institute convened a series of three meetings of well informed scientists and fire experts from the public and private sectors to examine the "state-of-the-art" technology in fire and life safety practices. The purpose was to provide an overview of related the issues' complexities and controversies. Current levels of computerized fire modeling were reviewed and considered to be promising but premature for practical use.

Because several states were seeking or considering legislative remedies, all with differing requirements, NIBS was encouraged to undertake the development of a new performance based test to measure the potential combustion toxic hazard of building products and building contents. The goal was to submit the proposed test method and supporting data to appropriate voluntary consensus standards organization so that all parties could adhere to a nationally recognized uniform standard which responds to today's performance needs.

The Institute's Board of Directors endorsed the recommendation. Funding commitments were secured from the private sector to help defray the costs of this three year project. Public entities at federal, state and local levels joined the private professionals by contributing technical and practical advice.

Altogether more than 150 people have participated in the project with some 70 serving on a steering committee. A specialty contractor conducted laboratory research experiments which were identified and monitored by a working group of seven experts. The initial assignment of perfecting the test apparatus and testing some 20 different product configurations was largely completed during 1989.

During 1990 the Institute completed its work on the draft test procedure and submitted it to two of the nations' largest voluntary consensus standards writing organizations for processing through the rigorous consensus processes.

Through this volunteer effort, the Institute with its unique capacity to bring public and private forces together in common effort is effectively serving the public interest by fostering the development of a well-balanced and meaningful response to the public concern about this special issue of combustion toxicity.

NIBS' purpose was to develop a draft smoke toxicity test method for submission to and consideration by established voluntary consensus standards writing organizations. There was no intent to achieve consensus on the test method through the NIBS process due to the complexity and controversial nature of the issue. Such consensus is to be achieved through a rigorous voluntary standards process.

The Institute's Steering Committee recommend that the NIBS' board of directors release the final project technical report and NIBS' draft test method to ASTM Committee E-5 and the National Fire Protection Association (NFiPA) Fire test Committee. Due to the variety of comments received, it is recommended that the test method be considered in the context of all written comments and reports. NIBS' board of directors accepted the recommendation and the test method has been transmitted to the aforementioned standards writing organizations.

NIBS recognizes that there are alternative protocols being developed using the NIBS test apparatus. NIBS encourages the widest practical use and continued development of this apparatus.

NIBS 12TH ANNUAL MEETING

NIBS' 12th Annual Meeting was held in November in Washington, D.C. The meeting focused on identification of the most pressing issues facing the building process with an objective of managing the response to primary concerns and opportunities identified by NIBS' members.

The Following priority issues were identified by the attendees and are being reviewed and considered by the Consultative Council's Planning Committee:

1. STANDARDS AND PRODUCT APPROVAL: The relaxation of trade barriers and an expanding global economy are creating pressure for the development and use of universally acceptable building standards, codes, and product approval systems.

To ensure that the changing process remains open to all and does not discriminate against the United States, the U.S. building community needs to be involved in the creation of this new international system. The current U.S. system needs to be examined in light of the changing circumstances in an effort to move towards an international system and fair reciprocity with other nations. U.S. Government and industry cooperation is essential. Suggested activities include:

- identify or designate the appropriate government agency and private organizations to take the lead.
- assure adequate funding.
- undertake educational and public information programs to keep U.S. building community advised.
- converting the U.S. building industry to metric.
- developing a nationally-recognized product approval and certification process.
- bring more uniformity to the U.S. system.

2. CONSTRUCTION QUALITY: Quality in the constructed product, like other products, is essential to maintain competitiveness. Quality control in construction is complicated because of the complexity of the construction process; and the differing responsibilities of designers, contractors, subcontractors, product/equipment manufacturers, fabricators, and suppliers who are normally assembled to produce a single constructed product and are then disbanded.

Construction is a process that combines services, products, and equipment to achieve the end result of a built facility. In the typical environment the specific organizations and individuals responsible for quality change with each project. Suggestions for addressing the construction quality issue are:

- developing improvements to the delivery process.
- bring total quality management to construction.
- bring teamwork to construction in the spirit of getting the job done right.
- improve the education of designers and contractors.
- create a desire for life cycle quality and a willingness to pay for quality.

3. BUSINESS ENVIRONMENT FOR COMPETITIVENESS: Government policy and the U.S. product and professional liability legal system should be positive factors and not disincentives to U.S. competitiveness. Leadership is needed in the formulation and adoption of policies leading to capital formation, and the imposition of a burdensome professional

and product liability system needs to be eased. Suggested areas to be addressed include:

- formulation of tax, monetary and fiscal policies to improve U.S. capital formation.
- define the authority and responsibilities for parties in the construction process and encouraging acceptance of their responsibilities.
- identify the legal liabilities and responsibilities in a business and social context.
- enhance the ability and desire of the U.S. construction industry to compete in the international markets.
- eliminate the unethical business practices found in many developing countries.
- expand U.S. Government support for financing international products.

4. TECHNOLOGY TO IMPROVE COMPETITION: More new technologies need to be developed and assimilated more quickly into the building process.

With the exception of building product/equipment manufacturers and material suppliers, most technological advancements come from outside the construction industry. The R&D commitments of design and construction firms is very minimal. Similarly, construction-related R&D and academia and government is limited by comparison to other developed countries.

The introduction of new technology is generally a slow and deliberate process. Because of professional liability exposure, designers are reluctant to specify new and innovative projects without a track record on performance; contractors are hesitant to use new materials or processes because the risk of failure outweighs the rewards of success; and any technologies must also meet the seemingly complex process for acceptance in a diverse array of building codes. Suggested areas to be addressed include:

- encourage the adoption of U.S. technology in third world countries.
- develop an awareness of international technologies.
- exploit robotics and information technology.
- joint public and private research and development investments.
- coordination of research and development, i.e. who is doing what.
- improve the product approval process.
- encourage federal construction agencies to demonstrate new technology in their building programs.

5. QUALITY OF THE INDOOR ENVIRONMENT: The building community should provide leadership in determining environmental policy related to the indoor environment.

At this time there is confusion over terms and little consensus on methodologies used in making policy decisions related to the indoor environment. A suggested first step in establishing such policy is to define objectives, terms, and evaluation criteria used to measure success. Suggested areas on indoor air quality to be addressed include:

- compiling comprehensive information on the current problem.
- developing product specifications that include environmental information.
- researching system dynamics to better understand interaction among building products, mechanical systems and building occupants.
- performing impact assessments on a full range of potential indoor air hazards.
- establishing priorities on what needs to be accomplished.
- identifying new technologies to alleviate or eliminate current problems.
- writing new ventilation standards to maintain adequate levels of indoor air quality.

Other areas to be addressed include:

- developing standards on acceptable noise levels in buildings and in the building environment.
- researching the potential environmental hazards associated with increasing levels of electro-magnetic radiation from electronic office equipment.

6. SOCIETAL/PUBLIC ENVIRONMENTAL POLICY: The building community should be a major player in determining public environmental policy.

Presently there is semantic confusion over terms and little consensus on methodologies used in making environmental policy decisions. The first step in establishing such policy is to define the objectives to be achieved, terms, and evaluation criteria which will be used to measure success. This data could be incorporated into the national environmental debate upon which public policy decisions might be based. Suggested areas to be addressed include:

- conducting a consistent, broad-scale environmental performance evaluation of all building products and materials.
- developing creative reuse strategies to reduce the volume of waste.
- finding solutions related to building site issues involving waste dumps, new building construction, infrastructure, and utility construction.
- studying density issues to assess which land use plans minimize environmental damage.
- analyzing cost/benefit issues related to wetlands and the protection of endangered species.
- studying new structures for addressing environmental policy which will allow for adequate comparison of the policy implications of different environmental hazards i.e. asbestos disease, radon exposure, groundwater pollution.
- changing the industry's "bad guy" image on problems associated with the environment.
- broadening the discussion base with other segments of society to seek collaborative solutions to environmental problems.

- creating an education program which transfers environmental knowledge and information about indoor air quality and other environmental issues to builders, environmental groups, and to the public.

7. A NATIONAL HOUSING PRIORITY/PLAN: Presently, the U.S. has no defined and coordinated approach to providing housing for its people.

Affordable housing has reached a critical stage. The ranks of the homeless are increasing. There is a shortage of affordable rental units for low-income people and the percentage of income paid for rent by this group is increasing thus exacerbating the possibilities for homelessness. The federal government which traditionally has provided low-income housing has had limited involvement since the early 80's. The small amount of low-income housing that is presently built is done with one-time combinations of public and private financing. Buying a house has gotten beyond the reach of middle-income first time home buyers and move up buyers are now experiencing difficulty affording their next residence. Suggestions for addressing a national housing priority/plan are:

- Establishing a definition for affordable housing.
- Establishing the role of the free market in rehabing and building affordable housing.
- Development of programs which will provide affordable housing.
- Exploring the regulatory means of producing the kind of small, minimally built, and affordable houses which were constructed after World War II.

8. FINANCING INFRASTRUCTURE: Financing infrastructure for new development has become more complicated and cost prohibitive in recent years.

In many parts of the country the cost of new infrastructure is no longer borne by the community at large but by developers who pass on the costs to home buyers. Since the mid-70's communities across the country have attempted to limit growth through a number of means including charging impact fees for installation of new infrastructure and/or requiring developers to install infrastructure if building permits are to be granted. In addition, the costs of installing infrastructure have increased. Suggestions for addressing infrastructure financing problems are:

- Development of a more universal means of financing infrastructure including bonds, taxes and federal funds.
- Development of alternatives to impact fees.
- Development of means to mitigate rapidly rising soft costs, especially the costs of construction insurance and financing.
- Development of criteria which provide only for necessary or appropriate infrastructure, for example, grass swales vs. storm water sewer systems, or residential streets designed for 25 mph vs. 40 mph.

9. HOUSING EDUCATION: State-of-the-art information on methods for producing affordable housing, financing housing and using model building codes has not been put into practice by the legislators, builders and others, and housing issues are not generally understood by the public.

Various means for creating affordable housing, financing housing and building housing to the latest codes are well documented in printed literature. However, states, counties and municipalities operate housing and regulatory programs which do not take advantage of documented workable practices. Builders still overbuild houses according to local practices rather than the latest technology as represented in model codes. Public reaction to innovative means of regulating housing reflect a lack of understanding of the issues which have created housing affordability problems. Suggestions for addressing the housing education issue are:

- o Dissemination and implementation of the lessons from HUD's Joint Venture on Affordable Housing.
- o Educating legislators on means of financing more affordable housing.
- o Educating builders on use of model building codes.

BUILDING SEISMIC SAFETY

The 1988 Armenian and the 1989 Loma Prieta earthquakes have shown that even a moderately severe earthquake is one of nature's most terrifying and devastating events. Collapsing buildings and falling debris can take tens of thousands of lives and earthquake damage can cripple emergency response and recovery efforts. Many of these immediate cost estimates don't include long term losses to business and individuals. In North America, far less severe earthquakes centered in eastern Canada and southern California resulted in several million dollars of damage to public and private property in 1988.

The United States has not suffered a severe earthquake (8.0 and above) for many decades, but the potential for incredible disruption, damage, and death exists since more than 70 million Americans in 44 states are constantly at risk from moderate to severe earthquakes. Of special concern are the central and eastern parts of the nation for it is here that the largest U.S. earthquakes occurred in the past.

Since the most recent of these severe earthquakes occurred more than 100 years ago, most people assume that they will not occur again. Therefore, little has been done in these areas to design and construct earthquake-resistant buildings and other facilities essential to modern life such as bridges and other transportation system components, oil and gas pipelines, electric power and communication systems, and water and sewer systems.

NIBS' Building Seismic Safety Council (BSSC) is a unique instrument for dealing with the complex regulatory environment and the related technical, social, and economic issues involved in developing and promulgating nationally applicable building earthquake hazard mitigation regulatory provisions that can mitigate the threat to life safety and property from seismic hazard across the United States. BSSC was established in 1979, under the auspices of NIBS, as an independent, voluntary membership body to bring together all of the needed expertise and all the relevant public and private interests to resolve issues related to the seismic safety of buildings and to overcome jurisdictional problems by providing authoritative guidance and assistance backed by broad consensus. BSSC's 54 members represent the full spectrum of building community interests such as planning, design, construction, regulation, and utilization of buildings. To fulfill its purpose, the BSSC:

- Promotes the development of seismic safety provisions suitable for use throughout the United States;
- Recommends and encourages the adoption of appropriate seismic safety provisions in voluntary standards and model codes;
- Assesses progress in the implementation of such provisions by federal, state, and local regulatory and construction agencies;
- Identifies opportunities for improving seismic safety regulations and practices and encourages public and private organizations to effect such improvements;

- Promotes the development of training and educational courses and materials for use by design professionals, builders, building regulatory officials, elected officials, industry representatives, other members of the building community, and the public;
- Advises government bodies on their programs of research, development, and implementation; and
- Periodically reviews and evaluates research findings, practices, and experience and makes recommendations for incorporation into seismic design practices.

The BSSC is committed to continued technical improvement of seismic design provisions, assessment of advances in engineering knowledge and design experience, and evaluation of earthquake impacts. It recognizes that appropriate earthquake hazard reduction measures and initiatives should be adopted by existing organizations and institutions and incorporated, whenever possible, into their legislation, regulations, practices, rules, codes, relief procedures, and loan requirements so that these measures and initiatives become an integral part of established activities, not additional burdens. The BSSC itself assumes no standards-making or -promulgating role; rather, it advocates that code- and standards-formulation organizations consider BSSC recommendations for inclusion into their documents and standards.

During 1989 and 1990, the BSSC made considerable progress in providing up-to-date resources for use in developing seismic design provisions and in promoting earthquake awareness nationwide. BSSC initiated the second of a series of planned triennial updates of the National Earthquake Hazard Reduction Program (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Buildings and plans to have the revised document ready for release in late 1991. The NEHRP Recommended Provisions serves as the centerpiece of the Council's program and is intended to continue to serve as a source document for use by all interested members of the building community.

The BSSC's work in 1990 was made possible with funding from the Federal Emergency Management Agency (FEMA) and thousands of volunteer hours on the part of many of the nation's leading experts on seismic design and construction. In 1990, BSSC focused on the 1991 update of the 1988 NEHRP Provisions; providing consensus approval of publications on seismic hazard evaluation and strengthening for existing buildings; updating earlier BSSC reports; and initiating a series of training seminars on earthquake risk awareness, and the availability, use and application of the Provisions.

LIFELINES

Lifelines are those systems upon which society relies heavily to provide it with energy, water, sewer, transportation, and communication. The physical facilities and components that comprise these systems are critical to lifeline operation and, therefore, to the safety and security of the nation's citizens and their resources.

NIBS' 1987 report recommended to the Federal Emergency Management Agency actions needed to mitigate the seismic risk to the nation's lifelines. This report, entitled Abatement of Seismic Hazards to Lifelines: An Action Plan, recommended 67 high-priority projects estimated to cost approximately $29 million. It was developed by a group of 65 lifeline experts.

In recognition of both the complexity and importance of lifelines and their susceptibility to disruption as a result of earthquakes and other natural hazards, FEMA, as the federal government's disaster preparedness agency and the lead agency in the National Earthquake Hazards Reduction Program, concluded that the lifeline problem could best be approached through a nationally coordinated and structured program aimed at abating the risk to lifelines from earthquakes as well as other natural hazards. At about the same time, the Expert Review Committee that reviewed the NEHRP program stressed the need to implement a beginning program in lifelines and the development of design criteria, codes, and standards of practice for the design, construction and retrofitting of seismically resistant lifelines.

In 1991, FEMA is expected to look to NIBS to provide guidance in formulating the lifelines program as well as in launching the program by identifying activities (from the Action Plan and elsewhere) that should be initiated in the near term. To accomplish this work, NIBS' ad hoc Panel on Lifelines composed of experts in the technical and operational aspects of lifeline systems as well as in various political, social, economic, and legal aspects of reducing the risk to lifelines and public welfare from natural hazards, will be reactivated and augmented to provide the best possible source of advice.

BUILDING THERMAL ENVELOPE COORDINATING COUNCIL (BTECC)

All of the nation's residential and non-residential structures consume one-third of the total energy used by the United States and costs well in excess of $100 billion per year. While research is being conducted to improve the energy efficiency of America's buildings, there has been a lack of coordination of the various researching bodies to assure those efforts are coordinated and complimentary.

In 1982, NIBS was asked to form the Building Thermal Envelope Coordinating Council (BTECC), a broadly representative group to coordinate the nation's research and development effort to increase the energy efficient performance of homes, offices, schools and industrial buildings.

Organized under the auspices of NIBS, BTECC exists to stimulate and coordinate non-proprietary research and technical activities. BTECC accomplishes much of its work through its six Research Coordinating Committees (RCCs). Members of BTECC participate in the following RCCs:

- Building thermal envelope materials;
- Fenestration - thermal and daylighting;
- Moisture control in buildings;
- Heat and mass transfer measurement;
- Air infiltration and ventilation; and
- Thermal performance of whole buildings/passive energy systems.

During 1990, BTECC's RCCs continued to focus on the impact of federal legislation on replacing chlorofluorocarbons (CFCs) as a blowing agent for insulation products, and the role of window energy efficiency rating systems, the effect of aging on insulation R-values, and building thermal envelope performance programs in other countries.

In 1990 BTECC conducted a workshop on heat flux measurements and planned another on the prevention and repair of condensation damage. The second workshop entitled, Bugs, Mold and Rot in Buildings, is to be held in May of 1991 in Washington, D.C. BTECC continued planning work on the feasibility of developing a system to track current research and publications on building thermal envelope systems.

WOOD PROTECTION COUNCIL

It is estimated that over $750 million is spent each year in replacing wood in building structures that are severely damaged by decay and termite attack. While there were some initiatives during the 1960s to address the problem, during the early 1970s private sector initiatives to protect buildings from damage due to wood destroying organisms slowed significantly.

In 1983, the Wood Protection Council was formed under the auspices of NIBS. The goal of the Council is to promote the development and use of safe and effective control technologies for the protection of new and existing buildings from damage by decay and wood destroying organisms.

During 1990, the WPC's Codes and Standards Committee continued its work to revise and expand its document, Guidelines for Protection of Wood Against Decay and Termite Attack. The WPC also continued its effort to develop guide specifications for procurement of treated wood and for soil treatment. The activities of the WPC have been specifically targeted to:

- Promote the development and use of sound technical and economic guidelines for active and passive methods for protecting structures including new and existing buildings, and other structures, through the use of current technologies;
- Improve the education of responsible public officials, building community members, and the public;
- Improve the dissemination of relevant technical information;
- Promote effective and current codes, standards, federal specifications and standards, and other technical criteria; and
- Promote the research and assessment of new types of construction, new control methods, health effects of pesticides, and deactivation procedures for pesticide residues.

During 1989, NIBS published and marketed proceedings from a well-attended 1988 WPC workshop entitled "A New Look at Wood Protection." In addition to the many technical presentations, this workshop looked at the impact of recent pesticide regulations which have essentially removed the most effective termiticides from the marketplace. The proceedings of the workshop are available from NIBS' publications department.

SUMMARY

Madam Chair, on behalf of the members, the staff, and the board of directors of the National Institute of Building Sciences, I thank you and members of the Subcommittee for the privilege of testifying before you. The Institute has become an integral and important element of the building community and we hope this Subcommittee will look with favor on maintaining the excellent partnership with the private sector by continuing the matching fund concept. The Institute's programs are vital to improve and preserve the nation's built environment. NIBS, in the spirit of the public private partnership established by the Congress, is working effectively in the public interest to achieve those goals.

PROGRAM ACTIVITIES

Mr. HARRIS. Thank you.

Madam Chair, there are two basic areas that I would like to outline. One is the kinds of activities we perform and the other is the kind of specific issues that we feel need to be addressed, and that NIBS is properly positioned to undertake.

One of the assignments that the legislation assigned NIBS was to provide needed support in the areas of building technology and regulation to Federal agencies. This is clearly needed. Bringing together the Nation's most knowledgeable and experienced people to identify issues, develop a clear understanding of the problems associated with planning and developing achievable solutions, implementing them, and updating the efforts based on new knowledge is vital to our responsibility to support Federal agencies' construction and building regulation programs.

Such needs deserve support and cooperation for both the near and long term. The costs of conducting an effective planning program, operating our voluntary consensus process, soliciting information on current and emerging issues, producing technical reports and our annual report to the President and the Congress, and conducting our annual meeting to ensure an effective two-way communication with the broad-based building community are not inexpensive.

But if these functions assigned by the Congress in 1974 are not carried out, the public will be the losers through a hodge-podge of uncoordinated regulations. There are numerous examples of critical issues that we need to address or continue to address.

METRIC MEASUREMENT IN CONSTRUCTION

One, that many of us have recognized for some years, is metrication. Metrication is extremely difficult for the United States because we have such a material and intellectual investment in the inch-pound system. Yet it is critical because the rest of the world uses a different system of measurement.

Materials producers' investments in costly equipment, such as steel fabricating equipment and the practices of design professionals and labor are traditionally and almost totally steeped in the inch-pound system. They find it extremely difficult to accommodate the cost of change. Yet because the rest of the world uses another system, and it is imperative that we make this transition sooner, rather than later to enable us to compete internationally. While that will be a long-term loss which will not happen tomorrow, we need to recognize that and plan to avoid the consequences.

The Federal Government is required by 1992 to procure goods and services in the metric system under the Omnibus Trade Act of 1988. It is not feasible for the construction activities of the Federal Government to make such a change by 1992, but they have to start now to achieve meaningful progress toward this mandate.

The way to achieve that is to establish a coordinated program that involves not just the Federal agencies, but a well-planned and coordinated program involving the private sector activities that serve the agencies by providing goods, services, and the techniques and expertise to employ them to design, construct, operate, and maintain the built environment.

ENVIRONMENTAL ISSUES

Another issue that falls into the growing set of environmental issues is radon. Others are lead-based paint, asbestos, and the more general topic of indoor air quality. Before any of these contaminants can be fairly and effectively regulated, it is necessary that the Federal agencies with the responsibilities for health protection establish reasonable and achievable safety levels.

If that is not done, the building science community will not be able to develop the technical criteria needed for regulations and procurement.

An additional concern and need that transitions from setting health levels is that of establishing the responsibilities of all the parties involved. Those can be regulators, builders, contractors, design professionals, product manufacturers—essentially the same group that is involved in resolving any technical building design, construction, and regulation issue.

This set of environmental problems is expected to continue, not just for the rest of this century, but continuously, as we learn more about measuring potential pollutants and attempt to identify the causes of serious health problems such as cancer.

NIBS is not made up of health professionals. We are architects, engineers, building regulators, and scientists who develop and implement technical solutions to these problems. So we need the first step to be taken by the health sciences community. Then we can do our part to help solve the problems.

Even though we know there is a problem, it is very difficult for the building regulatory community, and the scientific community that establishes the basis for regulations, to set the kinds of regulatory solutions that builders and others need in the absence of fundamental health safety levels.

EVALUATING NEW BUILDING TECHNOLOGY

The National Affordable Housing Act that included the authorization for NIBS also included a new responsibility for the Institute: to establish the Advanced Building Technology Program through a council to be named by the Secretary of HUD. This program, as outlined in the bill, needs to be further defined to insure a useful program is created.

The objectives of this legislation are fundamental to the Institute's mission. It is a basic need of the building community to have a clear, well-defined, and well-understood method to evaluate, assess, and accept new technologies. This will enable us to better advance and apply in the building process, new techniques that become available from industry.

The time it takes to develop and bring to market a new building material or technology has been determined to be between 7 and 14 years. For the short term, it makes more sense for product manufacturers to invest their money elsewhere than to invest in new products for the future, because it seldom results in a timely return.

ACCESSIBILITY FOR THE DISABLED

One of the bills passed by the Congress last year was the Americans With Disabilities Act. All agree this is worthy legislation. The legislation assigns to the Department of Justice and the Architecural and Transportation Barriers Compliance Board the development and enforcement of regulations. However, the prescribed schedule and approach doesn't make effective use of existing criteria and enforcement systems already in place at the State and local levels of government.

From a technical standpoint, providing access to the disabled in public buildings is really no more difficult than providing fire egress for building occupants or assuring structural stability. Those functions are provided for buildings by codes and regulations and the building permit and certificate of occupancy process available at the local or State level of government throughout the country.

We are now working with the Access Board and the Department of Justice to find a way to implement the intent of this law through the Nation's voluntary standards process and the building code processes. If such a solution is not found, it will potentially cost the Nation billions of dollars in reconstructing buildings so they meet the intent of the law after complaints are made through the Department of Justice and the courts.

These are just a few of the many issues and problems on which NIBS needs to spend its appropriated dollars. By effective planning and coordination among the affected sectors of the building community, the individual solutions will be ones that can be accommodated within existing process, rather than trying to create new ones.

Senator MIKULSKI. Thank you very much for your informative testimony. Let me move on quickly to some questions.

First of all, I did misspeak about the authorization. You are right, it was included in the Assisted Housing Act, but it was an authorization for fiscal years 1991 and 1992. However, in the President's budget, though authorized, it was not in the President's budget. Therein lies the confusion. So I apologize for that.

FINANCIAL STATUS

Let me go to my questions. First of all, we are sorry to see that, after profits in fiscal years 1989 and 1990, you are operating at a loss in 1991 and expect a loss for the year. To what extent was this caused by the loss of Federal funds?

Mr. KING. Well, I think there are several factors, one the loss or the decline—it is not a total loss, but a substantial decline—in the contributions which we receive from private sources. We have a program in place that we hope will, over a period of time, build that back up and help to replace Federal funds.

But to replace $500,000 in an operation that has a total budget of $3 million is something that takes some time to accomplish.

RESPONDING TO CURRENT ISSUES

Senator MIKULSKI. As you indicated in your testimony, many of your "customers" have been hit by the recession; is that correct?

Mr. KING. Correct.

Another part of this, Senator, I think is that we have to respond, we feel we have to respond, to activities that are current. When the American Disabilities Act that David talked about before was enacted, most of the country I think, including the construction industry, had seen that and followed that through as an employment issue. They did not see it as a construction issue.

Then all of a sudden people started to see parts of the bill that were really significant for the construction industry. So part of our mission is to bring to the attention of the whole community new events that are very important. So we got together with the Architectural and Transportation Barriers Compliance Board and Justice. We brought together a group from all over the country, building officials, building developers, contractors, code officials, architects and engineers, so that they would know about this important new law.

We financed that whole forum out of our funds, because we felt it had to be done then. That improved the quality of the comments that the Architectural and Transportation Barriers Compliance Board received and, hopefully, improved the final regulations.

We are attempting to bring together the voluntary standards groups who have been working in this area for addressing the needs of the disabled. I think the feeling of the handicapped community is they have been a little bit too slow; they have not moved at the pace that they want. We are trying to bring these people together and say: This is going to happen and the way it should happen is for standards to be developed that everyone will support, and have them made a part of the existing building regulatory system. When a building is opened you need a certificate of compliance, you cannot open a public building without that. The building official provides that official inspection on which that certificate is based. It provides the quality assurance, and that is a much better way to do this than to have what I, for want of a better word, termed the vigilante provision in the legislation, that says you go out and find a building owner that has not done things right and you sue him in court and you can recover court costs.

We know that is not going to bring about the compliance the disabled really deserve.

We have also been addressing concerns like indoor air, which is going to be a huge issue for the country. We need to bring people together to discuss that. We need to help contractors, material manufacturers, architects, and engineers to start to understand this issue in order to respond by developing practical solutions and putting them in place.

The final point I would make is that over the last several years starting probably back in the early eighties, the Federal Government has been moving away from having trained professionals. If we look at the staffs of architects and engineers that used to work for HUD and other agencies, they are decimated.

We have moved to a time when we feel that things should be done by the States or they should be done by voluntary systems. I think that may ultimately be good government, but there is a real void here.

The Institute is trying to fill that void by bringing solutions to these issues that will benefit all of the people across the country.

Senator **MIKULSKI.** We are going to be moving to a vote soon.

Mr. **KING.** That is the reason for our budget dilemma. We tend to spend the money when it is needed, and we have spent more money because of the increased need for the Institute's services.

Senator **MIKULSKI.** I think we have time for about two more questions, which I think would complete what I need to know.

BENEFITS FROM APPROPRIATIONS FOR NIBS

Could you explain as precisely as possible what would be the benefits realized from a Federal appropriation in 1992 and, conversely, what would be the problems for not receiving one?

Mr. **KING.** That is an extension of what David was talking about.

Senator **MIKULSKI.** That is exactly right.

Mr. **KING.** If we deal specifically in an area like indoor air, there is a need to bring the business community, the design sectors, research sectors, regulators, and others in the construction community together to discuss those issues. We can work in conjunction with Federal agencies who are going to be involved to start the dialog, increase the information base, before the time that a Federal agency like EPA may decide, all right, we want the Institute to do something, we will give you a contract.

So, as does any organization, like a business, we need seed money for the development of issues. If in essence you look at the money we receive from private contributors as being the money that we use to keep the professional staff in place, your contributions would be used for the development of these issues, that would then work hand in hand with money that would flow from Federal agencies.

It is also used when we employ our consensus process to get people to agree upon something. We have to estimate how many meetings are we going to take, how many people will we have to bring together and pay their way because we need their expertise, or when we need consumer interests who cannot come unless we have to pay their way. We have to estimate those costs.

Because these are complex and often controversial issues, many times we miss, we needed two more meetings, and so we may miss on a Federal contract by $25,000. That again we need your Federal appropriations for. We need the Federal appropriations because the Federal Government does not pay their bills as promptly, Senator, as they should, and we need to wait until we get our money.

All of those things are the things we would have to get extra private contributions, and without it we would just be forced to say we could not hold that forum, we could not bring that group together, we could not start the process of identifying the key players or issues.

Senator **MIKULSKI.** I think that gave us a pretty good picture, building on the previous comments. As much as I would like to ask some more questions, I have to wrap it up because of the vote.

WORK WITH FEDERAL AGENCIES

Are Federal agencies failing to use NIBS' services and should we take action or jawbone to encourage them to do so?

Mr. KING. You can help us. We feel that it is part of our responsibility to have a continuous dialog with those agencies, and we are doing much better. We feel that our relationships are better in individual agencies and they are broader across the scope of the Federal Government. But those relationships can be improved and we would appreciate your help.

We are constantly dealing with changes of people. We also have occasions where an agency could have used our services and for some reason did not. So I think the thing is continually reminding these agencies that the services of NIBS are available to them and helping where you see a particular development in a piece of legislation or program would be of great help to us.

Senator MIKULSKI. Well, I am going to ask my staff to follow up with you on specific examples where you think we could be helpful, particularly those within the framework of this subcommittee, where we would have some ability to do that.

Actually, we have other questions that we are going to submit for the record.

We have got a vote on on the death penalty and terrorism, so I am going to excuse myself. I am going to thank you for your testimony. I am really sorry you have had such an uncertain time. We would like to discuss this with you more once we get our 302(b), which I understand now is a 602(b), so that we can have at least some—so that you are not just left out there wondering what you can undertake.

So we thank you for your testimony. We thank you for your hard work.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Institute for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

THE EFFECT OF THE LOSS OF FEDERAL FUNDS

Question. To what extent is your anticipated operating loss in fiscal year 1991 caused by the loss of federal funds?

Answer. For the current year, our entire anticipated operating loss could be attributable to the loss of federal funds. Our current budget projects a deficit of $152,000 for FY 91, which would be more than offset by continued federal funding at the FY 90 level of $492,000. The soft economy is also a contributing factor, resulting in lower private sector funding.

However, to fully appreciate the significance of federal funding requires a much broader perspective than the current fiscal year. We believe that our current financial position has resulted largely from the limited and uncertain levels of federal funding which we had previously received. NIBS has never had the resources required to fully undertake the mission given it by Congress in our authorizing legislation. Federal funding was initially anticipated to come from appropriations, contracts and grants. It is unfortunate, although understandable given today's economic climate, that agencies never provided these grants which were encouraged by the legislation.

Congress originally authorized $10 million to be appropriated "to provide the Institute with initial operating capital adequate for the exercise of its functions and responsibilities during such years" (PL 93-383 sec 809(h)). NIBS received only part of this initial operating capital, and over a much longer period of time. Had the original authorization been recorded as an accounts receivable and assessed interest of 8% on the outstanding balance, this receivable would now be over $12 million. This illustrates the impact on the Institute as a "business" resulting from the timing of the appropriations.

The effects of this shortfall in federal funding go well beyond an operating loss for the current fiscal year, to the very nature of NIBS as it currently exists and its future development. This is not to say that federal funding has been inconsequential. These funds have enabled the Institute to address and resolve many important issues. We are quite proud of the Institute's achievements, especially since the overall value and benefit to the nation is many times greater than the resources used to produce these benefits.

However, without adequate initial funding, NIBS has never been able to adopt a long term strategy to fulfill its mission. Thus, individual projects, for which funds have been made available, primarily through contracts with federal agencies, have been the main focus of the Institute's efforts, rather than long-term programs. These types of projects usually benefit a more narrow segment of the building community because they usually are responses to a highly visible crisis such as asbestos, radon, lead-based paint, and the like.

Efforts to determine the needs of the building community and the users of the built environment relating to technical and regulatory issues are difficult without adequate funding. The building industry is the largest single segment of the economy, and every citizen is a consumer/user of buildings. Developing and setting priorities for a comprehensive, consensus-based national agenda of the issues facing the building community and its needs has always been beyond the resources available to the Institute. Developing and implementing programs designed address these issues and needs would require even greater levels of resources. Yet, these are precisely the sort of efforts which are most needed for NIBS to be able to carry out its Congressionally assigned mission.

The Institute's authorizing legislation states that NIBS should develop, promulgate and maintain "nationally recognized performance criteria, standards, and other technical provisions for maintenance of life, safety, health, and public welfare suitable for adoption by building regulating jurisdictions and agencies, including test methods and other evaluative techniques relating to building systems, subsystems, components, products, and materials, with due regard for consumer problems." (PL 93-383 sec 809 (e)(1)(A)). There are literally tens of thousands of building systems, subsystems, components, products and materials, regulated by hundreds of public and private bodies. With discretionary funding of less than $1 million a year (including federal funding at recent past levels), it is impossible to adequately deal with more than a tiny fraction of this mission element.

The instability of federal funding has affected the Institute's ability to respond to its mission. Without stable funding, it is impossible to plan for anything more than the immediate future. Instead of focussing on what needs to be done, the Institute is often in the position of focusing on what little can be done.

Because NIBS has not had the resources to effectively and efficiently perform all of its duties, it has been much more difficult to attract and retain the commitment and participation of the private sector, including private sector funding. The loss of federal funding, by further inhibiting our capabilities, will certainly erode our existing private sector support. Although it is possible that NIBS as an organization could survive without continued federal funding and the resulting decline in private sector support, it would not be able to provide meaningful improvements to building regulation on a national scale.

Question. Is this a temporary result of having to make a quick adjustment to the loss of federal support, or is it likely to continue?

Answer. As noted above, it would be easy to attribute our deficit strictly to the loss of federal funds for the current year. However, our financial position is not the result of isolated and discrete events; rather, it is the cumulative result of many factors.

Our projected operating loss for the current fiscal year is temporary, if for no other reason than the fact that it would be impossible to sustain losses of this magnitude in the future. If changes cannot be made which result in more revenues while carefully managing costs in a manner sufficient to eliminate this deficit, NIBS will go out of business. While the Institute's board and staff will do everything possible to prevent this, accomplishing this objective is not a simple task.

Thus, it is hard to predict whether these changes can be made. Cutbacks in programs and activities would likely lead to further reductions in existing revenues. Generating new revenues requires the production of new products and services, which would require additional resources. We cannot predict if our existing level of reserves are adequate to finance new revenue generating activities, and the recession certainly does not help matters.

Question. It appears that for the first quarter of FY 1991, NIBS would have incurred a loss even with a Federal appropriation of $500,000 (assuming the funds are apportioned quarterly).

- To what do you attribute this?
- Is it a long term situation?
- What can or is being done about it?

Answer. Had the Institute received federal funds during the first quarter of FY 91 ($500,000 annually, $125,000 per quarter), it would have recorded a loss of approximately $5,000 for the quarter.

Clearly, a quarterly loss of $5,000, assuming predictably stable federal funding, does not present much of a problem. A small loss such as this could be attributed to any number of factors. For example, during the first quarter of FY 91, we did not receive a $20,000 donation from one of our regular contributors. This donation was subsequently received in January. Over a period of many years, there would undoubtedly be quarters where small losses would occur, due to similar circumstances.

In the absence of federal funding, the Institute incurred a loss of $130,000 for the first quarter of FY 91. As noted in the previous two questions, most of this loss seems to be attributable to the loss of federal funds in the short term. However, the overall financial position of the Institute is the result of many factors, not only the loss of federal funding for FY 91. While the loss of funding for FY 91 is probably the dominant contributing factor to the current financial situation of the Institute, by itself, it is not the real cause of our financial weakness. Since the Institute's inception, it has not had the resources to fully address its mission, and consequently, to undertake actions which would enable it to become financially self-sufficient.

In this regard, the current situation can be viewed as a long-term problem. As noted earlier, something will have to be done soon to eliminate the losses incurred in the first quarter of FY 91. Unfortunately, there is no easy solution to accomplish this goal. Any actions taken by the Institute will have negative consequences, particularly in the area of cost reductions. And the bottom line on revenues is that we have little control over revenue sources. Efforts and money can be spent to generate higher revenues, without any assurances that such efforts will be successful, particularly during this recession.

What is needed most by the Institute is a stable, long-term source of funding which would allow it to plan for and undertake long term programs and activities which address our mission, or an initial infusion of operating capital sufficient to accomplish the same objective. Our current efforts are geared to this strategy, since it alone offers the prospect of a real solution to the Institute's financial needs. However, this solution is not a quick fix. It will take time and resources to implement, and it is not clear whether NIBS currently has enough of either to be successful.

In the short-term, we have undertaken a series of actions to reduce expenditures as much as possible, without unduly interfering with the long-term strategy outlined above. Some staff positions have been eliminated or reduced to part time status, and some employee fringe benefits have been eliminated or reduced. The number of board and consultative council meetings has been reduced. We have eliminated travel reimbursements for volunteers working on some activities, and we have cut travel expenses for fund raising activities. Membership promotion activities have been reduced, and our newsletter will be published bi-monthly instead of monthly. These actions have resulted in annual savings of approximately $122,000, but because of the schedule for implementing them, they will affect only the last half of FY-91. However, some of these actions affect revenue generating activities, so the long term savings may be smaller.

We are continuing to monitor our financial performance, and will take further actions as needed. However, there is a very real danger that any future actions would have even a greater adverse effect on the operations of the Institute and our efforts to obtain stable long-term financing. In this regard, it would be most helpful to clarify the status of Congressional support in FY-92 and future years.

Question. Your first quarter loss in FY 1991 exceeded the loss anticipated for the entire year. Is that due to a seasonal influence or some other factor, or does it suggest a much larger loss that anticipated?

Answer. The loss incurred in the first quarter was almost double the loss projected by NIBS' original budget for the entire fiscal year. Our original budget projected a loss of $67,000, and the loss for the first quarter was $130,000. However, the original budget included federal funding of $250,000.

In response to the loss of federal funds (which was not known for certain until November) and other subsequent events, the budget was revised. Initially, the revised budget projected a deficit of $274,000. However, actions were taken to reduce the projected deficit to $152,000, including those actions identified in the answer to preceding question. We intend to monitor the situation closely, and modify the budget again if needed.

Question. If further "belt-tightening" is to take place, please describe the actions planned, and their impact on NIBS' operations.

Answer. As noted in responses to previous questions, there is a real danger that if actions are required in the future to deal with further deterioration of the financial status of the Institute, such actions would do more harm than good, particularly in the long run. On the other hand, the Institute cannot sustain large operating losses for very long.

Our strategy for dealing with this situation is to develop long-term solutions to our funding/financing problems. NIBS needs a stable, long term funding source, or adequate initial capital, to initiate the planning and programs needed to fulfill our mission and achieve financial self-sufficiency. Without stable funding from Congress in the future, this task will be much more difficult and time consuming.

Our current financial situation is not a short-term problem which can be corrected with short-term solutions. For the most part, all of the belt-tightening which could have been easily initiated has already taken place. Future actions may be needed, but any actions will depend on specific circumstances which are not yet known, and largely beyond our control.

For example, we do not know the status of continued Congressional and Federal support through appropriations and contracts. Private sector funding will depend on the effectiveness of existing and planned fund raising and promotional activities, our ability to identify, plan for and develop new programs which respond to national issues and needs, and especially the state of the economy insofar as it affects the building process. Product and publication sales, particularly CD-ROM based products, will depend on the level of future government construction, the willingness of federal agencies to participate in these programs, and on our ability to finance, develop, and market new products which meet the needs of the building community. Although we are confident of our abilities to produce successful products, development capital and the state of the economy are complicating factors.

If efforts to increase revenues in these areas are not successful and deficits continue, then as a last resort, further reductions in expenses will be needed. These reductions would largely be the elimination of entire programs and activities and underlying support personnel. We would likely be forced to eliminate our annual meeting and our newsletter. These actions would adversely affect our ability to communicate with members of the building community, and inhibit our efforts to raise funds, identify issues and problems which need to be addressed, or develop long range plans. Existing planning and administrative activities would have to be cut further, including board and consultative council meetings. This would impair the basic management and administration of Institute affairs. Valuable technical personnel and support staff would have to be laid off, reducing our ability to respond to important issues as they arise. Salaries and fringe benefits would have to be cut, harming morale and our ability to attract and retain qualified personnel.

In the long term, we believe that actions such as these would likely be counter-productive, as well as expensive. There are costs associated with eliminating personnel (unemployment for example), as well as rehiring and retraining new personnel. Further, it would be extremely difficult to raise any funds for an organization which would be perceived as "going under." Finally, it would be impossible to identify new and emerging issues and problems for the Institute to address, much less finance the development of new products, programs or services.

NIBS' COSTS RELATED TO CONTRACT INCOME

Question. What types of costs do you incur that cannot be recouped through contracts or sales, and why?

Answer. There are no legal limitations to the costs which can be recouped through external sales of products, such as publications or seminars. The sales price of these products takes all costs into consideration, and allows for an appropriate margin on the sale.

Cost principles for government contracts are governed by OMB Circular A-122, Cost Principles for Nonprofit Organizations. In general, costs are allowable if they are reasonable, conform to any limitation or exclusions as promulgated by Circular A-122, are consistent with policies and procedures which apply uniformly to federally funded awards and other direct activities, and are in accordance with generally accepted accounting principles.

Costs are allocable to a cost objective (contract or other direct activity) if they are treated consistently as similar costs incurred for the same purpose in like circumstances, and either are specifically incurred for the objective, benefit more than one objective and can be reasonable distributed, or are necessary for the operation of the organization although a direct relationship with any one cost objective cannot be shown. A cost which is properly allocable to one objective cannot be shifted to another for any reason.

Direct costs are those which can readily be identified with a specific cost objective. Indirect costs are those which cannot be readily identified with a cost objective.

The costs of certain activities are unallowable as charges to federal awards, but still must be treated as direct costs for the purpose of determining indirect rates, and must be allocated their share of indirect costs. Examples of unallowable costs include:

- costs of activities performed primarily for the benefit of members, clients, or the general public, including maintenance of member rolls and records, providing information to members, the public, or legislative and administrative bodies, promotion, lobbying, and other forms of public relations, meetings and conferences, except those held to conduct general administration of the organization;

- costs of organized fund raising including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions;

- public information costs, such as pamphlets, news releases and other forms of information, which is incurred to inform or instruct individuals, groups or the general public, interest individuals or groups in participating in the organization or a service program thereof, or disseminate the results of sponsored or non-sponsored activities.

It is important to note that costs such as these cannot be charged to federal awards as either direct or indirect charges. Further, these activities must bear their proportional share of any allowable indirect costs. In addition, some specific expenses, such as interest, bad debts, entertainment, contributions, and investment management fees are unallowable as either direct or indirect charges for federal awards.

Finally, the costs (direct and indirect) associated with NIBS funded programs are not allowable as charges to federal awards.

While the Institute understands the rationale for these procedures, they present burdens to NIBS in several respects. NIBS' membership, which is representative of all sectors of the building community--including consumers, is one of NIBS' primary resources for forming project committees responsible to advise and guide the Institute's technical projects. Yet the development and maintenance of that body, which is required by NIBS' authorizing legislation, is an unallowable cost. Further, the cost of NIBS' newsletter, the Institute's primary method of communication with its membership and the building community, is an unallowable cost. Ironically, if dues were not charged to be a member of the Institute, many of these costs would be allowable; though this would eliminate membership dues as a funding source.

PROPOSED NIBS' INTERNALLY FUNDED PROJECTS

Question. Backup material provided us identifies internally funded projects and programs through FY 1990. Could you identify those for 1991, and their costs.

Answer. Many of the issues the Institute addresses span several fiscal years. Descriptions of some of the issues and needs addressed by NIBS in 1990 and prior years, and which continue to need NIBS' effort and new issues, include the following:

- Accessibility for the Disabled -- The Americans With Disabilities Act (ADA) requires federal agencies to develop regulations (technical standards and the extent of their application) with which to implement the law. NIBS has been working with building community organizations and federal agencies to gain agreement on the best way to meet the intent of the ADA through appropriate use of the nation's existing building regulatory system. To accomplish this objective, the following are needed: 1) a procedure for incorporating ADA accessibility standards into the nation's existing building regulatory process; 2) an effective way to disseminate ADA regulations and standards; and 3) effective methods with which to update regulations, codes, and standards applicable to the ADA in order to allow for the appropriate use of new technology.

While the Department of Justice, the Architectural and Transportation Compliance Board, and other responsible federal agencies must use the prescribed rule making procedures, the law contains sufficient flexibility to make effective long term use of the nation's voluntary consensus standards and model codes which have long addressed accessibility for the disabled, and the state and local code enforcement process to implement and enforce the ADA. It is vital that we work to achieve a lasting and achievable long term solution. Without such a solution, the nation's disabled community will suffer most.

NIBS' ADA conference held in September 1990, was successful in increasing the awareness of the new law and identifying the issues in need of resolution. We would like to hold a follow-on conference to develop acceptable solutions through cooperative efforts between the public and private sectors, but budget cutbacks prevented the projected expenditure of $15,000 to $20,000 needed. Further, the long-term solution to this issue will not result completely from the proposed follow-on conference. Several years of coordination, refinements and problem solving will be needed. This classic broad based issue needs a forum where all affected interests can reach agreement on the level playing field that NIBS provides. This fast paced issue doesn't provide good potential to solicit funds from the private sector because by the time that somewhat costly exercise is accomplished, the rapidly vanishing window of opportunity will be closed.

* Lead-Based Paint -- In 1990 NIBS sought funds from HUD, EPA and other sources to develop guide specifications for lead-based paint (LBP) testing and abatement in buildings. NIBS is seeking funds for this program from numerous organizations, but due to the infancy of the LBP industry and the current recession, private sector funding capabilities are very limited. Even though, NIBS has received commitments for about 20% of the cost of the work from other organizations, the two federal agencies primarily responsible for developing solutions to the LBP problem have not formally responded.

Our feedback from the private sector is that LBP abatement programs are meeting with some disastrous results across the nation. For example, an owner who sought competitive bids for a LBP abatement project recently received bids ranging from $7,000 to $120,000. Typically, advertisements receiving such a wide bid range are rebid after the problem is corrected. Such a wide range indicates the specifications are unacceptable because too many questions are left to the bidders rather than being clearly answered by the specifications. Without guide specifications for use by design professionals serving the public housing industry this type of problem will surely continue.

One of the primary keys to effective use of the competitive bidding process is clear and complete specifications. Virtually every other type of construction is undertaken through the use of tried and true guide specifications. It is inconceivable that responsible agency officials believe this complex environmental problem will result in anything except disaster if this type of tool isn't made available. Without such a guide, a significant portion of the funds devoted to HUD's Comprehensive Modernization Program will be wasted on change orders, potentially contaminated units, injured workers, rebid projects, and most tragically, injured children.

In addition to paying for part of the cost of seeking funds for the program, NIBS had projected supporting this program with part of the funds provided through federal appropriations. Although no specific figure was budgeted for this, it appears that between $50,000 and $100,000 will be needed if HUD and the EPA provide even modest funds for the program.

* Long Term Planning--The development and use of a long term planning process through which to identify and conduct continuing improvements in the building regulatory and technological assessment process is vital to achieving the most cost effective solutions. In keeping with accepted issues management principles, the earlier an issue is raised, the more effectively it can be resolved. Through this approach, resolutions are reached before conflicts are entrenched. Due to its extreme fragmentation, the building community has never been able to look beyond the crisis issues and plan long term solutions. NIBS' recently developed planning committee has established procedures for and begun an effective mid- and long-range program to identify potential problem issues and seek their rational and effective solutions. But without funds for this effort, real progress will not occur. Including committee, staff, and other support costs the projected cost of this program is $250,000 annually.

* Completing the development of a consensus based design guide on air infiltration and heat and moisture transfer control for the Public Buildings Service of the General Services Administration is expected to cost $25,000.

* Continuing the study to compare the provisions of the Life Safety Code and the three model building codes, to

determine the extent of substantive technical differences which may lead to duplication, overlap, and conflict in standards governing health care facilities is projected to cost approximately $40,000.

- In early FY-1991 NIBS published its Land-Use Regulations Handbook for use by the non-technical individuals involved in the land-use and zoning processes at the local level to improve the understanding and use of innovative land use techniques to facilitate increased use of sound environmental methods, conserve land resources, and reduce the cost of residential construction. Funds are needed to promote use of the document and make it readily available for volunteers responsible for these issues at the local level. The projected cost for this is $25,000.

  In addition, the second phase of this program, to develop a technical criteria manual for land-use techniques, is estimated to cost $500,000. This program would take several years.

In addition, NIBS' professional staff are frequently asked by federal agencies and private organizations to serve on committees to address building related issues. When trade associations serve on such groups they represent the interests of their constituents and their costs and time are paid for by those constituents. NIBS, not being a trade association, must bear such costs in order to bring to the public the benefit of its expertise in such programs. Two recent examples are the Secretary of Energy's invitation for NIBS to serve on DOE's Advisory Committee on Renewable Energy and Energy Efficiency Joint Ventures and the Consumer Product Safety Commission's invitation to be a member of the National Smoke Detector Program Committees. The annual cost for these activities are estimated to be $50,000.

BENEFITS DERIVED FROM FEDERAL APPROPRIATIONS

Question. Explain as precisely as possible the benefits to be realized from a Federal appropriation for FY 1992, or conversely, the problems from not receiving one.

Answer. Congress authorized the creation of a National Institute of Building Sciences to serve the public interest by promoting a more rational regulatory environment for the building community (for the maintenance of life, safety, health and public welfare), by facilitating the introduction of new and innovative technology, and by disseminating nationally recognized technical information. Congress itself found that the lack of an authoritative source to make findings and to advise the public and private sectors with respect to the use of building sciences and technology imposed severe burdens of the entire building community, including consumers, noting that "the lack of uniform housing and building regulatory provisions increases the cost of construction and thereby reduces the amount of housing and other community facilities which can be provided." (PL 93-383)

Without adequate resources, the Institute will not be able to effectively fulfill this enormous mission outlined by Congress. There will be no "single authoritative source" to make findings and advise the nation; rather, there will continue to be isolated and fragmented sectors competing to promote their own special interests. The building and construction industry in the United States is a 500 billion dollar business annually. NIBS is the only organization focused on the regulatory aspects of this, the largest single segment of U.S. industry, which is not controlled by one or a few of its many sectors. Its as though we are willing to forego a unique and effective solution because we aren't used to having one.

Without adequate resources, the Institute will not be able to efficiently fulfill its valuable national mission. NIBS' most precious resources are the dedicated and committed individuals, who in the interest of improving the nations' built environment, willingly contribute their valuable time and expertise to serve on project committees and councils of NIBS. By leveraging modest funding with volunteer resources, NIBS can provide services and benefits many times greater than the direct cost. Our consensus process ensures that the national interest is met, and facilitates the introduction and use of resulting findings.

But adequate funding is needed. NIBS must be able to communicate with the building community (telephone, mailings, news releases and news letters), provide information and materials (printing and copying, supplies, annual reports), and in some cases, pay for travel of volunteers. It is unfortunate that as a result of recent cost cutting efforts, we have had to eliminate travel reimbursement for volunteers on some unfunded activities. Many individuals who participate represent organizations which can support their participation and pay for the expenses involved. Others, particularly consumers, must pay their own way. Unless they receive reimbursement, this poses a severe burden, and does not "ensure that the widest possible variety of interests and experience essential to the functions of the Institute are represented in the Institute's operations". (PL 93-383)

Continuing Federal appropriations will ensure that the Institute has the resources to fulfil its mission. Perhaps the best way to appreciate this is to examine some of the major successes of the Institute which have occurred when adequate and stable funding is available.

One such example is our Construction Criteria Base (CCB). CCB grew out of research conducted by NIBS in 1986 and supported by the Department of Defense, the Naval Facilities Engineering Command, and the Army Corp of Engineers, who requested NIBS' assistance in seeking an innovative way of distributing current construction criteria to their field offices and private firms providing design and construction services to the agencies.

Because of the stable and secure funding provided by the agencies, CCB has revolutionized the distribution, maintenance, and use of design and construction information and has resulted in increased productivity, decreased costs, and a better built environment. Today, the system includes over 750,000 pages of technical information, updated quarterly, and is still growing. Hundreds of private sector organizations have allowed their proprietary standards to be incorporated into the system without royalty, further enhancing the value of the system. But without the funding to conceive, develop, expand, and enhance the system, it would not exist today. Another example is the work being performed by the Building Seismic Safety Council (BSSC). With stable and long term funding provided primarily by FEMA, leveraged by thousands of volunteer hours on the part of many of the nation's leading experts on seismic design and construction, BSSC has made considerable progress towards providing up-to-date and cost-effective seismic design provisions for buildings and in promoting earthquake awareness throughout the public and private sectors.

The centerpiece of the BSSC effort has been the development and maintenance of the NEHRP Recommended Provisions for the Development of Seismic Regulations for New Buildings. These provisions have been, or are in the process of being adopted for use in all three of the model building codes in the country, helping to ensure the safety of 70 million Americans in 44 states who are at risk from moderate to severe earthquakes.

It is not possible to precisely measure the benefits to the nation of these and other NIBS programs. How do you measure the life, health and safety of Americans? How do you measure property damage which is averted? How do you measure the savings and efficiencies resulting from revolutionary technologies? It is certain that unless a stable and secure funding formula for the Institute is found, work such as this will be difficult to undertake. Congressional funding has been an important part of this formula in the past, and should continue in the future.

CONTRACTS WITH FEDERAL AGENCIES

Question. Please describe how your typical contracts, or if they vary considerably, your major contracts, are entered into. For example, are you usually negotiated with as a sole source, or do your have to compete, and if so with whom?

Do you usually have fixed price contracts, cost plus fee, or what? What profit or fees do you typically build into a contract?

Answer. With a few exceptions, NIBS' practice has not responded to competitive requests for proposals. To do so would put the Institute in the position of competing building community sectors it is charged to represent and would conflict with our authorizing legislation, which calls on the Institute to "delegate to the maximum extent possible, responsibility for conducting the needed activities described in [the legislation]". NIBS was not authorized to replace existing organizations, but to bring existing organizations together and utilize their abilities where appropriate.

Generally, the contracts, grants, or cost sharing agreements which NIBS enters into result either from an agency seeking our advice (sometimes at the request or direction of the Congress), or from NIBS submitting a proposal to the agency (either solicited or unsolicited). NIBS' enabling legislation specifically authorizes federal agencies to contract with the Institute for specific services where deemed appropriate by the responsible federal official involved.

Generally, the Institute negotiates and enters into contracts for specific projects. However, we currently have an Indefinite Quantity Contract with GSA, which runs for a three year period. This contract does not define any specific projects. Rather, it outlines the cost rates and general scope of activities which may be needed during the term of the contract. As specific needs arise, individual task orders are negotiated between GSA and NIBS.

Currently, the Institute has fixed price contracts, cost reimbursable contracts, and cost-sharing agreements with various federal agencies.

The issue of profit or fees depends on many factors. Although the Institute's enabling legislation specifically authorized NIBS to charge fees and other charges for its services, it is often not possible to include these directly in contracts, particularly as part of grants or cost sharing arrangements. Currently, the Institute does not have any contracts which incorporate a fee or profit. In the past, we have had contracts which have included fees ranging from 3% to 10%. Also, NIBS does have a number of fixed price contracts which may result in a profit if the work is completed under budget. We are also negotiating a new three year indefinite quantity contract with GSA for which NIBS is seeking a 5% fee.

Question. Last year, you said GAO recognized the legitimacy of contract fees as a source of working capital for nonprofit organizations. Could you provide a copy of your basis for this statement or a citation to it?

Answer. There are probably several sources in which GAO supports the legitimacy of contract fees. Our basis for the statement that GAO supports the legitimacy of contract fees for nonprofit organizations is the 1982 report entitled Fee Guidelines Still Needed for Government Sponsored Nonprofit Organizations. This report does not specifically address the subject of the need or legitimacy of contract fees for nonprofit organizations. However, it does reference other sources which do address this subject, and the report implies the legitimacy by reiterating the need for government-wide guidelines on the subject of contract fees for nonprofit organizations.

Specifically, the report references the 1962 Bureau of the Budget report, or the Bell Report, which was accepted by the President. On page 4, GAO notes that the Bell report "concluded that fees were needed by nonprofit organizations and were justified to perform independent research and give some degree of operational stability and flexibility." The GAO report also reiterates the need for government-wide guidelines on the subject, which GAO had called for in 1969: "the recommended guidelines were to limit the fees to the amount needed to enable the organizations to accumulate a reserve to provide operational stability and to pay prudent business expenses not otherwise reimbursable" (page 4). Clearly, GAO recognizes the legitimacy and need for fees by nonprofit organizations. GAO also apparently prepared a report in 1971 which specifically addresses the reasonableness of fees paid to nonsponsored nonprofit organizations. However, we do not have this report and have been unable to find a copy of it.

Question. You also advised us that in September 1990, OMB authorized agencies to use NIBS as a sole source when they could benefit from NIBS' unique capabilities. Could you cite the source or provide a copy of OMB's pronouncement.

Answer. A copy of the letter from the Office of Federal Procurement Policy within OMB is attached.

Question. Although NIBS was created to fill an unmet need, we understand that you do have competition when seeking to provide services or products to federal agencies or others. Please describe what makes NIBS unique in terms of providing products or services that others cannot.

Answer. As one of its most valuable functions, NIBS serves the nation as an impartial interface between the federal government and the private sector. NIBS' Congressional charter requires that it has "no axes to grind" or bias. Impacted elements of the nation's building community, including the consumer, can and are encouraged to make their position or concerns heard. This is very important to federal agencies when its programs are likely to affect large portions of the populace.

The Institute works primarily through committees. These committees, composed of individuals or representatives of organizations possessing demonstrated competence in one or more facets of the subject under investigation and a commitment to assisting in solving the problem at hand, are carefully structured to create and maintain a careful balance among points of view that arise as a result of variety in age, sex, geographic region, sector of employment, ethnicity, and educational background. Since its inception, the Institute has demonstrated its ability to marshall the best talents of the building community to address problems of national significance using a consensus process that ensures all positions or concerns will be heard. Thus, when solutions are agreed upon through NIBS consensus procedures the agencies benefit from the resulting accord by possessing a solution which has already been tested by the sectors it is likely to affect.

Frequently, federal agencies send NIBS copies of competitive requests for proposals expecting a response because the responsible contracting official was unaware of the Institute's practice of not responding to such RFPs.

FUNDING MECHANISMS FOR PROPOSED NIBS PROJECTS

Question. During the hearing, you briefly mentioned some of the projects that would be undertaken given a Federal appropriation. Why are these not funded through some other means? For example, is no one Federal agency responsible for them; does industry not recognize their importance, etc.?

Are there other key issues/problems facing government or industry that you believe NIBS could make a unique contribution to, and if so, what makes NIBS' contribution unique?

Answer. Many of the areas of need--lead-based paint (LBP) guide specifications, new sections for NIBS' Asbestos Guide Specifications, an adequate basis for technical criteria for accessibility for the disabled, and enforceable code requirements for a myriad of environmental concerns like indoor air quality--are new or relatively new issues. Other issues, such as energy criteria and regulation, vary with international events and market swings. Some issues have limited or uncertain business development potential.

For example, if a company is formed to provide LBP services, it may precede the emergence of the market. Such fledgling corporations, even if they survive, are not in the position to fund the development of programs such as the development of guide specifications which they would most assuredly need. Similarly, it is extremely difficult for even the largest of the nation's housing authorities to devote even a small part of their limited funds for such an effort. Most housing authorities struggle to provide needed public housing in today's difficult economic environment. The sizeable private sector remodeling industry, which should, based on HUD's Comprehensive and Workable Plan, be concerned about lead-based paint hazards, is primarily made up of small companies which have extremely limited capacity to fund such efforts. Trade associations representing these sectors have concerns about liability, market impact, the cost impact of regulations, and a myriad of competing interests for their attention and react to the most eminent crisis.

There are many building issues for which no single federal agency is responsible. Moreover, the knowledge and experience needed to address many such issues are beyond the capabilities of any single agency. Although there are "lead agencies" for some issues, they have no "authority" over other agencies. Considering the lead-based paint issue as an example, HUD, EPA, CPSC, and OSHA all have an interest and can contribute positively toward the issue; however, the coordination among these agencies and the private sector should be improved. When NIBS produced the lead-based paint abatement guide for HUD, the lack of agreed upon worker protection standards was quickly recognized. The standard OSHA is now developing is not expected to be available until 1993--five years after its need was clearly recognized and agreed upon.

Another problem for federal agencies is the lack of an efficient and readily available enforcement mechanism for construction related regulations. In this regard, it is unfortunate that some federal agencies find it difficult to make better use of private sector capabilities and state and local fire and building code departments.

Private sector standards writing organizations and model code bodies could be more effectively and consistently used to achieve nationwide public interest objectives. Under the Constitution the states are responsible for building regulation.

NIBS' planning process offers an opportunity to identify and outline responses to issues facing the building process much earlier than has been possible in the past. NIBS' unique capability is to bring all affected interests together to converge numerous important points of view on each issue. This prevents individual sectors from prematurely focusing on the most convenient solution from their perspective and finding themselves in a confrontation with other sectors over the appropriate solution. In addition to bringing all affected and knowledgeable sectors together, NIBS has the ability to reach consensus on the solutions and either carry out the agreed upon resolution or recommend specific actions for other organizations to carry out.

THE DYNAMICS OF CONTRACTING WITH FEDERAL AGENCIES

Question. We know that the law creating NIBS encourages federal agencies to work with NIBS and use your services. But a list of your Federal contracts seems to exclude certain agencies that we might have expected to see, for example HUD.

Do you know why some agencies are not working with NIBS, and could you cite a few examples where you believe NIBS could make a valuable contribution to an issue the Federal government is working on, but in which NIBS is not presently involved?

Do you have any feel for what these may mean in terms of lost revenue to NIBS?

Answer. There are many reasons for federal agencies to utilize NIBS' capabilities and many issues which would benefit from more cooperative activities. Many beneficial activities continue to be carried out cooperatively between NIBS and numerous federal agencies. However, we are frequently told that agencies are without funds to carry out certain programs. NIBS, as an organization of modest size, is not well known to some federal officials responsible for programs related to NIBS' mission, partially due to the turnover in agency program and procurement positions. Related to the turnover issue, many agencies have fewer technical personnel and consequently are less knowledgeable about the potential available outside the agency to help address issues for which it is partially responsible.

Agencies like HUD have many programs which would benefit from NIBS' involvement. These include lead-based paint, evaluation of innovative building products, developing and incorporating criteria with which to deal with environmental hazards such as radon, energy criteria, criteria with which to effectively deal with moisture problems, protection of existing and new wood structures, and housing technology research. Similarly, the EPA, FEMA, OSHA, CPSC, as well as the Departments of Veterans Affairs, Defense, Energy, Interior, Justice, State, Health and Human Services, and Agriculture are all responsible for construction and/or construction regulation programs. A complete response to this issue is the subject of the comprehensive planning program NIBS has initiated.

For all agencies responsible for construction programs, NIBS can assist in the continuous process to develop performance based criteria systems as well as unique criteria for specific needs. Frequently, investigations are needed to identify the most appropriate action. Further, some agencies have outdated or inadequate criteria. The Institute's experience in developing design, procurement, and regulatory criteria for other agencies and its vast knowledge of criteria resulting from its development of the Construction Criteria Base combine with its consensus procedures to form an excellent resource for all federal construction agencies.

The fundamental part of NIBS' mission is to develop criteria with which to evaluate the performance of building products. No single agency has this responsibility, nor would such a singular responsibility be feasible. However, if all agencies supported such a program which effectively utilized the many in-place private sector capabilities, the federal agency's construction programs would benefit greatly in terms of both cost and improved quality and performance. Such a program might be combined with the Advanced Building Technology Program included in the National Affordable Housing Act.

NIBS' COSTS COVERED BY CONTRACTS

Question. We also learned last year that some Federal agencies are not fully funding your projects. Does that continue to be a problem.

Answer. There are many issues to consider regarding funding received from federal agencies. We recognize that the federal government will never be able to fully fund every NIBS project, particularly given the current fiscal environment. Quite simply, federal agencies do not always have the discretionary funds available to fund unsolicited proposals. Even when funds are available, they are often limited. If a proposed project costs more than available funding, one pragmatic issue is whether some funding is better than no funding.

The funding mechanism used is also important. Contracts are covered by different regulations than grants and co-operative agreements. In either case, each agency interprets these regulations somewhat differently. As we have noted in the past, some agencies have decided not to contract with NIBS on a sole source basis, leaving grants and co-operative agreements as the only funding vehicle. In other cases, agency program officials have found it easier to provide funding via grants and co-operative agreements, either because of the availability of funds, or because of the difficulty in processing a contract. Regardless, grants and co-operative agreements generally require some contribution by the recipient in the form of monetary or in-kind support.

Another issue is the use of fixed price contracts. Recently, a larger percentage of our contracts have been fixed price. These contracts set a predetermined price for completion of the work under the contract. Accordingly, it is possible to either make or lose money on the contract. Although the Institute has losses and gains, fixed price contracts are often preferable to cost reimbursement contracts where the scope of work is well understood. Often, cost reimbursement contracts will reimburse costs up to a fixed ceiling only. If costs exceed the ceiling, losses are incurred, but if costs are lower than the ceiling, no gain is realized.

Finally, unforseen circumstances often arise which make it difficult to fully recover the cost of a project. For example, the requirements of a consensus project may necessitate additional meetings or work beyond what was originally budgeted and incorporated into the contract or grant, as was the case with the lead-based paint project accomplished for HUD. Sometimes, the Institute is forced by external deadlines to respond to issues before a contract can be executed, as was the case with the radon project carried out for the EPA. Often, we are forced to maintain idle capacity while contracts are negotiated, because it is cheaper in the long run to maintain these capabilities than replace them. A more steady flow of contracts would resolve that issue.

Last year we stressed the difficulty in earning excess revenues from our contract and grant operations to provide for long-term planning and to fund discretionary projects. In order to cope with this, the Institute needs to have access to other sources of funding and capital. In the past, Congressional funds have been used to offset some of the shortages in agency funding.

Without this flexibility, the Institute will not be able to undertake projects which are not fully funded, regardless of the importance of the project. Currently, we are in the process of soliciting funds to develop guide specifications for testing, abatement, clean-up and disposal of lead-based paint. Not only is this important project delayed due to lack of adequate funding, but we are actually forced to spend scarce funds to raise the money needed to undertake the project.

THE EFFECT OF THE MATCHING FUNDS PROGRAM

Question. In the past, you said that Federal funds encourage private sector involvement, because private funds in effect trigger a Federal "match." We note that donations, sales, and membership dues for 1991 are all coming up short of what you budgeted. Has the private sector indicated that the absence of matching Federal funds is a factor?

Answer. Aside from the lack of federal funds provided on a matching basis, it is clear that the current recession, which has hit the building industry very hard, has adversely affected our private sector funding sources. In recognition of the impact of the recession of our private sector revenues, our FY 91 budget was revised in January to decrease the projected revenues from donations, memberships, and sales.

However, the lack of federal matching funds has had a negative impact as well. Previously, we were able to make the case to potential donors that their contributions would be matched by the trust fund, or more recently, by direct appropriations. Since the status of future federal appropriations is not known for most of the year, (until the appropriation cycle is complete), we cannot use the matching funds concept in our solicitations for support.

The matching funds concept was a powerful incentive for many private sector donors. At the very least, it conferred a level of stature and impartiality and confirmed the direct and tangible support of the Congress, support which has always been viewed as significant and consequential.

During 1990, the Institute conducted an analysis of potential funding sources. The resource development consulting firm which performed the study recommended an appropriate resource development strategy. The consultants conducted confidential interviews with leading individuals of the building community, and made their analyses and recommendations based on their findings.

One of the findings in their report was "Many interviewees comment that the federal funding NIBS receives helps maintains its credibility as an impartial forum, and therefore, federal funding should continue..." They also found that "Congress' reluctance to support NIBS financially on an on-going basis serves to diminish the stature of the Institute in the eyes of the building community. The valuable, potential services as delineated in the legislation creating NIBS cannot be provided by an organization restricted by the limitation of functioning from one fiscal year to the next, uncertain of its future support. Substantial support from major corporations and associations in the building community will be difficult to obtain until NIBS is viewed as a serious, viable, long-term player in the public-private effort to provide a safe, healthy built environment for the American public."

The report also lists the following among numerous specific comments, which were not attributed to specific individuals:

> "Federal funding should be sustained. It carries recognition and Congress needs to know that it has created an institution."
>
> "The government should be the means of support upon which its [NIBS'] existence is predicated. Corporate support should be in the form of making people available and having people input and participate."

Clearly, the private sector does recognize the importance of federal funding for the Institute.

THE UNIQUE BENEFITS NIBS PROVIDES

Question. Are there any efforts that NIBS is undertaking or should be undertaking that no organization in the public or private sector would contract for?

If so, describe them, what their estimated cost would be, and why no one would be willing or able to fund them.

Answer. In the areas of environmental criteria such as NIBS' Asbestos Guide Specifications, other organizations which produce guide specifications for general construction declined to undertake that program because of associated liability and because their membership represented only a portion of the expertise recognized to be needed. NIBS funded approximately 70% of the cost of producing the initial document. Although the Institute cannot speak for other organizations, it is not unreasonable to assume that similar concerns exist regarding other environmental issues like lead-based paint. The Institute's estimated cost to develop comprehensive guide specifications for lead-based paint testing and abatement is $170,000. Yet the money saved through use of such a guide is likely to be billions. This illustrates the benefit NIBS can provide.

Broad and complex issues such as building product approval, building performance criteria, and research and technology agendas, which are of interest to virtually all sectors of the building community, can be addressed best by an organization which is 1) impartial, 2) is representative of all affected interests, 3) has a process which allows and encourages broad participation, and 4) includes mechanisms to resolve conflicts and adjudicate disputes. This is what many believe the Congress intended NIBS should undertake. Yet, these are not easily accomplished tasks and they cannot be accomplished without adequate and consistent funding. The costs of these programs are substantial and they represent potential threats to current providers of similar, but fragmented, services. Thus, obtaining funding from these sources is questionable.

THE ADVANCED BUILDING TECHNOLOGY PROGRAM

Question. The Affordable Housing Act, which re-authorized an appropriation for NIBS, also directed NIBS to implement an "Advanced Building Technology Program." Could you briefly describe:

* What this program does that is not already part of your mission.
* Its importance.
* Its cost.
* How it would be funded in the absence of a Federal appropriation.

Answer. The Advanced Building Technology Program is closely related to the mission assigned in NIBS' initial authorizing legislation. The original legislation authorized NIBS to foster the development of criteria with which to evaluate the performance of building products, materials, components, systems and the like (technology), foster the use of such technology in prequalification programs for use by all levels of government, conduct related investigations, and disseminate related information, all as related to building regulation.

The Advanced Building Technology Program authorized in the National Affordable Housing Act (P.L. 101-625) establishes a voluntary cooperative program to encourage Federal agencies to incorporate new technology in new or existing federally owned and operated buildings. The new law authorized the formation of an Advanced Building Technology Council within NIBS for the purpose of identifying, selecting, evaluating, and recommending new technologies for use by Federal agencies. The program gives NIBS the following new responsibilities:

- Identifying specific new building technologies and evaluating them against recognized performance criteria and applicable test standards.
- Developing criteria for the use of the new technologies.
- Conducting economic analyses which compare the new technologies with conventional technologies.
- Advising on (recommending the use of) the new technologies.
- Evaluating the new technologies' performance after installation.
- Disseminating resulting relevant information.

The law also addresses the responsibilities of the manufacturer of the technology to provide guarantees for the purpose of managing liability associated with failures through prompt repair, removal and replacement of the technology.

The program's success will depend on its acceptance and use by federal agencies responsible for construction procurement programs. This includes such agencies as GSA, EPA, DOE, VA, DOD, NASA, HHS, the Postal Service, Education, Justice, Interior, State, Education and Agriculture. In addition, HUD and DOT have sizeable construction grant programs to state and local governments.

There is currently no single program through which building products (innovative or conventional) can be approved for use for federal construction. Federal agencies operate vastly different programs which utilize to substantially different degrees private evaluation programs such as those operated by model building code organizations, and the general and specialized services provided by private testing and certification agencies across the country. Some believe all the pieces are available to implement a single nationwide system on which federal agencies and industry can rely to assess and accept new building technologies and that such a program could be effectively used for private construction.

Considerable planning and careful study is needed before reasonably accurate estimates of the cost of initiating and conducting this program on a permanent basis can be developed. The Institute has recommended that the concept be refined through an implementation study conducted by a joint government/industry task force. The purpose of the study is to identify ways to assure agency involvement, identify permanent funding sources, and make appropriate use of existing public and private criteria, evaluation, certification, and acceptance programs. The estimated cost of this study is $350,000.

NIBS ANNUAL REPORT TO THE PRESIDENT AND THE CONGRESS

Question. The latest annual report we have is for 1988. Please provide any later ones that have been prepared.

Answer. We have enclosed our annual report for FY 89, and will forward a copy of our FY 90 annual report soon. It is due to be completed within the next month or so.

Question. Are there any other points that should be addressed concerning the merit or need for a Federal appropriation for NIBS for either fiscal year 1991 or 1992?

Answer. The schedule of the authorization process and the appropriations process, given the scope and magnitude of the Congress' responsibilities, doesn't always mesh with the needs of an organization like NIBS. Last year the legislation which authorized a 1991 appropriation for NIBS was passed shortly after the Congress completed the 1991 appropriations actions. Thus, the benefits which would be provided to the nation from an extremely modest 1991 appropriation of $500,000 will be lost unless such funds are provided via a supplemental appropriation. Even then, they cannot be used to benefit issues like accessibility for the disabled in as timely a manner as would have been preferred.

Simply stated, for the Institute to meet its obligations as assigned by the Congress, resources are needed. And those resources must be balanced for the Institute to maintain its independence. No other organization--public or private--uses funds more effectively in the public interest. It is NIBS' strong understanding of the complexities and dynamics of the nation's building practices that enables it to develop and effect meaningful solutions to the endless stream of problems with which it must deal. While some type of solution will always be found, the nation can not afford to waste this truly unique resource which can develop the best solutions.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This subcommittee stands in recess until March 6, when we will take testimony from FEMA.

Mr. KING. Thank you, Senator.

[Whereupon, at 4:10 p.m., Wednesday, February 20, the subcommittee was recessed, to reconvene at 1:30 p.m., Wednesday, March 6.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

WEDNESDAY, MARCH 6, 1991

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:09 p.m., in room SD–138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chair) presiding.

Present: Senators Mikulski, Kerrey, Bond, and Hollings.

FEDERAL EMERGENCY MANAGEMENT AGENCY

OFFICE OF THE DIRECTOR

STATEMENT OF WALLACE E. STICKNEY, DIRECTOR

ACCOMPANIED BY:

- **JERRY D. JENNINGS, DEPUTY DIRECTOR**
- **OLIN L. GREENE, JR., ADMINISTRATOR, U.S. FIRE ADMINISTRATION**
- **THOMAS F. KRANZ, ASSOCIATE DIRECTOR FOR EXTERNAL AFFAIRS**
- **ANTONIO LOPEZ, ASSOCIATE DIRECTOR FOR NATIONAL PREPAREDNESS**
- **GRANT C. PETERSON, ASSOCIATE DIRECTOR FOR STATE AND LOCAL PROGRAMS AND SUPPORT**
- **C.M. (BUD) SCHAUERTE, ADMINISTRATOR, FEDERAL INSURANCE ADMINISTRATION**

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. This subcommittee will come to order. We wish to acknowledge the fact that our ranking minority member, Senator Jake Garn, is on the floor with the issues pertaining to the Resolution Trust Corporation [RTC] and will try to join us, but his absence should be noted only for the reason that he wanted very much to be here for the FEMA testimony, but the RTC is a most compelling situation. As ranking minority at Banking, he must be there.

Today we are going to consider the fiscal year 1992 budget for the Federal Emergency Management Agency. FEMA requested $733 million, an increase of $170 million over 1991. Most of the increase is because last year there was a large carryover of money from Hurricane Hugo and the Loma Prieta earthquake. So no disaster relief funds were provided. This year, FEMA is asking for $185 million for disaster relief.

There are four areas that I hope to address today, although, with an Agency as diverse as FEMA, we will have other questions for the record on these and other subjects. We are going to welcome our colleague Senator Fritz Hollings as well because there is a GAO report that is just being released in terms of the Disaster Assistance Program. Senator Hollings was a most aggressive advocate for the State of South Carolina and we tried to cooperate with him and the people to move resources there as expeditiously as possible.

Before we hear from the Director of FEMA, we are going to ask our colleague Senator Hollings to comment on this report. After Senator Hollings finishes his remarks, we will turn to the Director of FEMA, and we will be asking questions relating to the allocation of resources, what did we learn from Hurricane Hugo and the San Francisco earthquake. We are also going to ask FEMA about the national disaster medical system, and what role, if any, it played in Desert Storm. We will be talking about the famous Emergency Food and Shelter Program, which we think is quite successful. We want FEMA to be as ready for action and disaster as our own U.S. military.

[The statement follows:]

STATEMENT OF SENATOR MIKULSKI

The subcommittee will come to order. Today, we'll consider the fiscal year 1992 budget request of the Federal Emergency Management Agency. FEMA is requesting $733 million, an increase of $170 million over 1991.

Most of the increase is because last year there was a larger carryover of money from Hurricane Hugo and the Loma Prieta earthquake, so no disaster relief funds were provided. This year, FEMA is asking $185 million for disaster relief.

There are four areas I hope to address today, although with an agency as diverse as FEMA, we will have other questions for the record on these and other subjects: First, how does FEMA allocate its resources among the many contingencies it must prepare for? Second, based on FEMA's experiences with Hurricane Hugo and the Loma Prieta earthquake, is there a need to change FEMA's role in natural disasters? Third, should this subcommittee go along with the administration's proposal to reduce funding for FEMA's Emergency Food and Shelter Program? And fourth, is the national defense medical system, in which FEMA has a role, ready to be mobilized in the event of a nonmilitary disaster in the United States?

With that, we welcome FEMA Director Wallace Stickney, making his first appearance before this subcommittee.

Senator MIKULSKI. Having said that, we welcome Senator Hollings for any comments he wishes to make.

STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

Senator HOLLINGS. Madam Chair, thank you and Senator Kerrey, very, very much. I appreciate you joining in the request for this General Accounting Office study. I appreciate your releasing this report today. I have only received it a couple of hours ago. I had the opportunity in a quick fashion to go over it with a couple of the staff pointing out some highlights. I think that I could emphasize just one thing with respect to something that would interest us here at the Federal level.

First, let's look at the summary that you find on page 4:

> The severity of these nearly simultaneous disasters highlighted some problem areas in all phases of disaster management: preparedness, immediate response, and

> recovery. These problem areas need attention by Federal, State, and local agencies to help improve capabilities to respond to future disasters.

Then by way of emphasis in the conclusions, on page 85, it said:

> Hurricane Hugo and the Loma Prieta earthquake were devastating, and the media's coverage of these events suggested that FEMA was not responding as expected. A closer look, however, shows that FEMA generally fulfilled its statutory obligations to supplement State and local efforts. Nonetheless, these nearly simultaneous disasters, highlighted areas in three phases of disaster management, preparedness, immediate response, and recovery. They need attention by Federal, State, and local authorities.

That in a line, substantiates my conclusion made when I said that the leadership of FEMA was a disaster and that there was not any question in my mind that FEMA was a bottleneck to getting the services and getting the help that we needed as a result of the disaster. Let me just emphasize that particular point by way of a suggestion that we allow our Corps of Engineers to handle its responsibility.

I speak as a former Governor, after having worked on the Subcommittee of the Governors' Conference, with my friend Governor Rockefeller, in the Office of Civil Defense Mobilization at that time. I had handled Gracie and Hazel hurricanes before and I saw the National Guard and the wonderful job they did then, and the wonderful job they did in Hugo.

By way of emphasis, as we comment on the report, we should not forget the outstanding response we received from the different groups that came from all over the country—it was just remarkable help of all sorts. We had truckloads from Tom's River, NJ. I have never heard of Tom's River, but they have got a Senator that is looking out for them now. There were 38 trucks, 18-wheelers going into McClellanville, SC, with the fire chief all the way down from New Jersey.

Right here in Anne Arundel, MD, Madam Chair, in your backyard, they had all the garbage trucks coming in, helping and swapping the crews on the weekends for 8 weeks running. The wonderful response that we got from all over the country, and yet, here, the entity that I thought that was supposed to respond under the Federal law, served as a bottleneck and a block to getting any assistance to the people that needed it.

ARRIVAL OF HURRICANE HUGO

Hugo finally hit the Charleston area on Thursday night at 11:35. On Monday when I got back, I got a call from a good friend, Dick Jenrette, who headed up Donaldson, Lufkin, & Jenrette, now chairman of the board of Equitable Life Insurance Society, and Dick informed me that his home at St. Croix had weathered Hugo, but not the looters. So I got on the phone and I had conversations with Mr. Robert Morris, Acting Director of FEMA. I also called the Attorney General to get them working on these problems.

As I said, Hugo hit at 11:35 on Thursday evening. Senator Thurmond and I went down on Friday morning, and we went all around the Navy yard, the air base, the different islands, seeing the devastation. At the end of the day, I came back to Washington to begin work on a solution from this end. I expected to get with FEMA, since I had been working with them earlier in the week.

HELP FOR SOUTH CAROLINA

I got back late Friday night. Saturday morning I called Mr. Morris of FEMA, and he said, "Senator, there are not any generators for South Carolina."

I said, "Come on, I do not expect you to have the generators in the office over there at FEMA, but the Pentagon's got them and you are the entity to move forward here and help us in this disaster."

He said, "You do not understand, we have used everything we had down in those islands. We do not have at thing for South Carolina or North Carolina."

By then, I was realizing the hurricane had gone up all the way up to Charlotte and Gastonia, devastating 24 counties, not just Charleston in my own backyard. I said there has got to be some help. He just cut me off. He said, "I told you now"—just like talking to a child—"there are not any."

I hung up and said the devil with that fellow. I called our favorite number. If you treat that switchboard over at the White House gently, kindlier and gentler, 456–1414, those ladies will find you anybody in the world. They can get them on the phone. I called for General Gray. He came off the Army-Navy golf course that Saturday morning and said, "What can I do." I told him my situation, we needed water buffalos, generators, and anything he had, and he said it will be on the way. He got them on the way and had Lt. Gen. Ernest Troy Cook, whom you saw on TV with Ms. Barbara Bush here just the other evening, now the commanding Marine general at Quantico. He was down there by Sunday.

I kept working all that afternoon and into the evening trying to get our local power company to get power down into the city. On Sunday, I called FEMA again and they said, "You just do not seem to understand. We are the third tier."

I said, "What do you mean, the third tier?"

They said, "Senator, the procedure under the law is that the local entities make a survey. After they have made a thorough survey, they advertise for two contractors at least, and after being denied by two contractors, they then go to the State. The Governor in the State advertises, and being refused by two contractors, they then appeal to FEMA. We are the third tier."

I said, "That is a bureaucratic mess if I have ever heard one. We will never get anywhere." So I then called Governor Sununu. I had met the Governor and he had been very cordial to me up in New Hampshire when I was running for President, and as a result, by 10 that night, I had Governor Sununu on the line. I told him he had a bunch of political dropouts over in that FEMA office. He better clean it up immediately because they were getting in the way and I was not getting any help. By then I had understood that Major General Smith at the Pentagon had the help. I talked to Secretary Cheney. He had assigned Admiral Long, who had been the commanding admiral down there at the 6th Fleet at the Charleston Naval Base, to take charge and help also.

On Monday morning, I arrived on the scene, and there was Lieutenant General Cook, and we had coordination going, and all the local entities and everyone else working out of the cellar we had at Leeds Avenue--highway patrol, law enforcement, everyone that I could think of, all the mayors working together.

I realized for the first time, the General told me, he said, "Now be quiet around that FEMA fellow if you can find him—he was always out surveying."

I said, "What is the matter?"

He said, "Well, you know, I am supposed to check everything through, but General Gray said go ahead anyway and get the help down here. But I am not supposed to do anything."

ASSISTANCE UNDER THE STAFFORD ACT

Now let me divert right there to the main point, Madam Chair. If we had not had these areas declared disaster areas under the Stafford Act, you will find that the Governor in the State can go directly to the Pentagon and it states that:

> During the immediate aftermath of an incident which may ultimately qualify for assistance under this title of title V of this act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private land, public and private lands for any emergency work

and so on.

Well, we had made a mistake by going to the President to ask that it be declared a disaster. We should have gone to the President and asked him to get the Pentagon so we could get around the bottleneck. That is why I really sought to study this Stafford Act closely.

I communicated with Gen. Colin Powell, he was the commanding general at Fort McPherson up until Tuesday night, midnight, at 12 after the hurricane had hit on Thursday evening. I asked General Powell for a supply company, whatever, because we needed that kind of expertise and manpower at the Municipal Auditorium where all of these donated supplies were coming in. Sam Walton from Walmart had sent 12 trucks of diapers and food and different other things that could spoil. By that time, I realized there were 24 counties involved, the expertise could not only assemble it properly in Charleston, but shortstop a good bit up above the Sumter line and Shaw Air Base and carry it in to Lancaster, York, up into Charlotte and those other places.

General Powell had ordered a company in, but by Wednesday night it had not come in. Then I found out that General Powell had become Chairman of the Joint Chiefs, that the order had been canceled, and then I found out about the snarl they had in the operation there at the State level where one group had requested the help, and the other had canceled it out. I got General Marchant, who was head of our National Guard and traveling with the other general from Fort McPherson, to go ahead with it and we finally got it in.

STATE'S SHARE REIMBURSEMENT

Specifically then, I found the worst of bottlenecks. As we got that assistance, we then heard for the first time, "Wait a minute, you are asking for all this assistance, Mr. Mayor, but boy, you are going to pay through the nose. You are going to have to raise taxes for all those troops coming up."

And I said, "Oh, no; they do not. The President has the authority to waive 100 percent of the cost." We had to find this information ourselves, with no help from FEMA, and pass it on to the Governor's office.

Specifically it went on to day 15 before we finally got the waiver. I had talked on October 4, day 13, with the various mayors, and the reason was because the mayor had gotten a letter from the Governor that the State would have to take care of 13 percent and the local entities would take care of 12 percent of the cost. Well the law said 100 percent. I will include that letter from the Governor to the different mayors. I had a line that went directly into where we were working out of the mayor's office down there, as well as Leeds Avenue, and on October 5, Mayor Jones from Mount Pleasant, Adams from North Charleston, Benoit from Georgetown, Edwards from Myrtle Beach, Cockfield, the mayor of Lake City, Walker of Bishopville, Edwards of Florence, Dixon of Manning, St. George had Tucker, Willbanks from Summerville, Painter from Sumter, Darby from the Regional Council of Governments, Berlinsky from Ravenel, Ryan from Sullivan's Island were all in the mayor of Charleston's office. I read them the law and thereupon, put it in a letter right to the President himself on October 5. I will include that letter where I cited title IV, section 402 of the Stafford Act. Finally, I will put in President Bush's letter of October 6, granting the waiver.

LACK OF FEMA OFFICES AND ASSISTANCE

There was not any question in my mind that this was a disaster. If we had not been declared a disaster and gotten FEMA in as a disaster, we could have satisfied a lot of this much more quickly. But it took that 15 days. For example, a week afterward, on Friday, a week after Hugo hit, the President visited down there. He landed in the city of North Charleston—80,000 people—and everybody saying, "Well everythings up to snuff for a photo opportunity." The fact is that FEMA did not even have an office in the 80,000-person city. He went over to Dorchester County, adjoining thereupon, and they said, "Ooh, everything is just fine." They did not have a FEMA office in Dorchester County.

I only say that by way of emphasis because FEMA was still considering itself the third tier. Now, we pick up the paper this morning, and the Corps of Engineers is already rebuilding Kuwait. This weekend, when I heard about that and down home in Charleston, I had various authorities—Ms. Linda Lumbard, who did most of the organizing as chairman of the county council coordination—said, why could they get the Corps of Engineers working where FEMA was blocking them out at every particular turn. Everywhere I turned they said, "Well we cannot do it until we clear with this, we cannot do it until we clear with that."

So I would hope that we would get this entity out of the way because the Coast Guard, Department of Transportation, the Corps, finally, the Marines, the Army, the Air Force, the Navy, everybody was fully cooperative in responding, save one; namely, FEMA. That was the entity that was supposed to get the help and they were there blocking and snarling any kind of assistance needed to the people.

GAO REPORT FOLLOWUP

Senator MIKULSKI. Well, Senator Hollings, thank you very much for your testimony and the chronicle of what you faced as you advocated the concerns of your constituents. I recall full well that Friday, that terrible Friday night, when Hugo just pounded South Carolina. That it took down oak trees—that stand for almost the psychic soul of Charleston—took down trees that even the Civil War had not touched, was unbelievable.

I recall talking with you and your dear wife that Saturday morning at about 10 when you were on your way to try to get into Charleston despite the confused weather situation and so on, in which you asked me as the chair of this subcommittee to be on standby if we had to do anything quick because we were working on the closing days of the appropriations. I remember your call before you left for the airport. I remember speaking to you. It was a grief-stricken time for you and for the people of that great State. I know about the bureaucracy you ran into. So, obviously, there needs to be more cleanup than the cleanup.

This GAO report is quite a document. It was just released today. I know you have not had a chance to review it, nor have we. But what I want to say to you and also to FEMA, because Mr. Stickney was not the director at the time, is that we are going to have another dialog just on this report and some other issues related to preparedness for both the ecological and infrastructure issues, but some of the issues we will be raising will also be about casualties.

Senator HOLLINGS. Right.

Senator MIKULSKI. Casualties. People being hurt. People being injured. How do you trigger the national disaster medical system? Who is in charge? How do you move the people, the personnel, as well as the ambulances? So we thank you for your testimony. Your chronicle will be a full part of the record. When we come back for the dialog at another hearing later on in this cycle, we would most cordially welcome your participation in it, and of course you are a member of this Appropriations Committee and are welcome to be part of this subcommittee for any hearings you might choose.

Senator HOLLINGS. Madam Chair, I thank you very, very much. I appreciate your indulgence this afternoon because I know you have other hearings. Thank you very much.

Senator MIKULSKI. Thank you. We are now going to ask Mr. Wallace Stickney and his team to come forward to present their testimony. I want to reiterate that the GAO report that Senator Hollings has spoken to has just been released.

We know, Mr. Stickney, this situation did not happen under your direction and know that you have not had a chance to see this report yourself, that it has just arrived to you as it has to us.

We would prefer, rather than reviewing this document, to stick to our questions related to the appropriations request. Later on in the appropriations cycle, come back, and as I said, have a dialog on your views on the report on how improvements could be made. Some might have to be statutorily made rather than by appropriations. But no, we are not going to go into this today. It would not be fair to you at all. We would much rather have a more thorough conversation about it.

Mr. STICKNEY. Thank you, Madam Chair.

OPENING DIALOG

Senator MIKULSKI. So proceed in any way that you might choose and, Hi.

Mr. STICKNEY. Thank you, and good afternoon. I would like to ask your advice on the procedure here. I do have a short statement which would take about 10 minutes. If time is of the essence here and you have a tight schedule, we could dispense with all statements, and go right into the questions.

Senator MIKULSKI. No; please present your statement, I have got your full testimony. That will be entered into the record. But why do you not give us your 10-minute summary because we want to hear it, we want to follow it, and then engage in some questions with you and your people.

STATEMENT SUMMARIZED

Mr. STICKNEY. Thank you, Madam Chair.

Madam Chair and members of the subcommittee, I am Wallace E. Stickney, the Director of the Federal Emergency Management Agency. I am here today to present to you the budget requests of FEMA for fiscal year 1992. I would ask that my extended statement be inserted into the record.

Senator MIKULSKI. Without objection, so ordered.

INTRODUCTION OF ASSOCIATES

Mr. STICKNEY. Thank you. With me today is my full team of associate directors and administrators. The team includes Jerry Jennings, our Deputy Director; Tom Kranz, Associate Director for External Affairs; Grant Peterson, Associate Director for State and Local Programs and Support; Tony Lopez, Associate Director for National Preparedness; Bud Schauerte, Administrator of the Federal Insurance Administration; and Olin Greene, Administrator of the U.S. Fire Administration. Our inspector general, Russ Miller, is also with us here today. I understand that he will be testifying separately later.

Moreover, Madam Chair, this hearing coincided with a regular meeting that we would hold at this time of all of our regional directors who are pleased to be here with us today and to understand better the needs of your committee and to have the benefit of your thoughts on our programs.

It has been 7 months since my confirmation by the U.S. Senate. In that period of time, I have directed an agency which has continued to respond to disasters, coordinated funds to feed the hungry and shelter the homeless, and improve the capabilities of State and local emergency managers to respond to all hazards, whether thrust upon us by man or nature. I am encouraged by the dedication of our employees to professionally serve the recipients of our programs.

While I am cognizant of the criticism subsequent to Hurricane Hugo, I can only assure the members of this subcommittee that you will be appropriating funds for an agency whose employees are dedicated to preparing and responding to the needs of the victims of tragedies. I also believe that, although all parties learned from that experience, the more measured analyses made in the last year and a half indicate that much of our planning and response was effective. We are building upon all that was good to make future response and recovery efforts even better. I might add, Madam Chair, I will be very anxious to see what needs to be done as a result of the analysis done by the GAO. I will be looking forward to that.

DISASTER RELIEF

The highlights of the budget request are as follows. The 1992 appropriation for disaster relief of $185 million coupled with anticipated recoveries of $50 million will permit disaster fund obligations of $235 million. This seems to represent a prudent annual resource level for this fund, and reflects an expected return to a normal year of disaster activity following the unprecedented disasters and obligations which resulted from Hugo and Loma Prieta.

EMERGENCY FOOD AND SHELTER

For the Emergency Food and Shelter Program, we have reduced our request to $100 million. The $34 million reduction in this request reflects a shift of resources to homeless assistance programs of other Federal agencies which can provide more comprehensive and longer term approaches. Based on recent meetings with the National Food and Shelter Board, a local board in Austin, TX, I am convinced that the least important concern in the lives of these boards is themselves; they are very dedicated to their program. Their dedication and respect for those most in need is certainly to be admired.

CIVIL DEFENSE

In civil defense, to support the continued development and maintenance of a base line, all hazard emergency management preparedness and response capability to all levels of government, we are asking for $153.6 million for civil defense. The requested amount is a modest reduction of 3.1 percent, which is in line with the current budget constraints and supports the administration's cost cutting measures to reduce a deficit. Last year, the administration established an interagency committee to assess civil defense program requirements in light of current events. Subsequently, the House Armed Services Committee directed the administration to undertake a major review of the civil defense policies. These reviews are underway and any decisions based on these reviews and assessments will be incorporated into next year's request.

NATIONAL EARTHQUAKE PROGRAM AND OTHER HAZARDS

For the National Earthquake Program and other hazards activity, this year's request is $20.2 million, a $2.6 million increase over 1991. This activity supports FEMA's statutory responsibilities as lead agency in the National Earthquake Program and encompasses programs which work with State and local governments, volunteer organizations, and the private sector, to reduce the potential loss of life and property from earthquakes, hurricanes, unsafe dams, and other related hazards.

TECHNOLOGICAL HAZARDS

Under technological hazards, this year's request of $11.3 million will support FEMA's efforts to provide technical and financial assistance to develop Federal, State, and local government capabilities to prepare for, respond to, and mitigate the consequences of technological emergencies.

In the radiological emergency preparedness area, we have issued a final rule which established a schedule of fees which will be charged to utilities for site-specific activities. Additionally, the 1992 budget requests Congress to direct FEMA to collect user fees equal to 100 percent of the Radiological Emergency Preparedness Program costs. These fees would also include our costs for emergency management activities which could not be assessed on a sight-specific basis.

FEDERAL PREPAREDNESS

Under Federal preparedness, this year's request for Federal preparedness is $155.3 million, an increase of $6.6 million. The major portion of this increase is in the Government Preparedness Program, where 92 percent of the work-years are requested. This request will continue the operation of the Emergency Information and Coordination Center and it will continue to provide national level emergency managers with data, communications support, and facilities to direct the national response to a wide range of emergencies.

U.S. FIRE ADMINISTRATION

The request for the U.S. Fire Administration of $9.9 million, an increase of almost $2.7 million over last year's request, will provide funds to carry out work in the areas of fire prevention, arson control, firefighter health, and fire data and analysis. The Fire Administration's mandate has been expanded as a result of the decision to place the National Fire Academy back under the Fire Administration's control.

Senator MIKULSKI. My favorite topic. [Laughter.]

Mr. STICKNEY. I would be glad to talk about it all afternoon, Madam Chair, if you would like.

TRAINING PROGRAMS

Our education programs are accomplished through the National Fire Academy and the Emergency Management Institute. The Emergency Management Institute has been integrated into the State and Local Programs and Support Directorate. The funding increases requested for emergency response and mitigation training will support the development and delivery of those programs that assist Federal, State, and local officials, emergency first responders, volunteer groups, and the public. Through on-campus and field course delivery, these programs will continue to meet the challenges of domestic emergencies through planning, mitigation, preparedness, response, and long-term recovery.

INSURANCE PROGRAMS

Regarding our insurance programs, in 1990, over 175,000 more flood insurance policies were added to the roles of the National Flood Insurance Program. There are now approximately 2.4 million policies in force nationwide with over $200 billion in coverage in force. This increase is attributed to the success of the program's partnership with private insurance industry as the most effective means of promoting the sale of flood insurance and providing improved service to agents, brokers, and, most importantly, policyholders.

The authority for the program was extended through 1995 by the Omnibus Budget Reconciliation Act of 1990. The act also directed all costs for the floodplain management aspects of the program as well as salaries and expenses be borne by policyholders. In 1991, a $25 policyholder service fee and other rating changes will be implemented in order to cover these expenses. Additional resources are required in this budget to implement the community rating system, a recently created program which will reinforce community mitigation efforts and allow for the reduction in flood insurance premiums in jurisdictions who take their floodplain protection responsibility seriously.

The Omnibus Budget Reconciliation Act also extended the Federal Crime Insurance Program though 1995. Since the program will continue to require taxpayer subsidy of over $1.2 million per month, FEMA continues to support discontinuation of the program. In order to make the program more cost efficient, however, FEMA will raise premium rates 15 percent each year as authorized under the Budget Act.

SUMMARY

I can tell you in summary that I am pleased to have accepted the President's appointment as the Director of FEMA. We continue to build our disaster planning, response, and recovery teams utilizing not only the broad, but—I must say with all due respect to the Senator—at times, remote capabilities of the Federal sector, while also bringing the full capabilities of the Nation's 1.2 million firefighters, 500,000 emergency and law enforcement personnel, and thousands of State, regional, and local emergency managers to bear in one of the most important responsibilities anyone could assume; that is, the protection of fellow citizens from and during disasters and assistance to them and rebuilding their lives.

The 16 disasters that have been declared since I have been Director of FEMA have shown to me in no uncertain terms the resilience, courage, and capacity of our citizens to withstand the effects of disasters and we must help them all we can. I would be pleased to answer any questions at this point that you, Madam Chair, or the members of the subcommittee might have.

[The statement follows:]

STATEMENT OF WALLACE E. STICKNEY

Madam Chair and Members of the Subcommittee:

We appear before you today to present testimony on the budget request for the Federal Emergency Management Agency (FEMA) for fiscal year 1992.

The total requested for all appropriations is $723,515,000. The outlay request is $854,697,000, and FEMA's full-time equivalent needs are estimated at 2,734. Compared to 1991, requested appropriations increase by $160,540,000, outlays decrease by $542,674,000, and full-time equivalents increase by 30.

The 1992 budget request for FEMA's operating accounts is $442,940,000, an increase of $17,316,000, or approximately 4%, over 1991. The increase includes funds to support FEMA's full complement of requested workyears, to provide for specific initiatives such as enhanced disaster assistance and earthquake hazard reduction efforts, and funding for uncontrollable cost increases, including GSA rent increases, the three-month 1992 cost of the 1991 pay increase, and for the January, 1992 pay raise.

OVERVIEW

The Federal Emergency Management Agency carries out a wide range of program responsibilities for emergency planning, preparedness, response, and recovery, as well as hazard mitigation.

With the exception of the request for the Disaster Relief Fund and the Emergency Food and Shelter Appropriation, FEMA's 1992 request, in general, contains no marked changes from the 1991 enacted levels. In 1992, an appropriation of $185 million is being requested for the Disaster Relief Fund which received no appropriated funds in 1991. For the Emergency Food and Shelter Program, an appropriation of $100,000,000 is being requested. While this represents a reduction of $34,000,000 (25%) to FEMA's emergency program, the request really reflects a shift of resources to homeless assistance programs of other agencies believed to provide more comprehensive and longer term approaches. Total proposed government-wide funding for targeted homeless assistance programs will remain at one billion dollars, an increase of 13 percent over the 1991 enacted level. While the National Earthquake Program, Disaster Relief Administration, and the Office of Inspector General are requesting significant resource increases in 1992, the Technological Hazards, Management and Administration, Federal Preparedness, Training and Fire, Flood Insurance and Mitigation, and Emergency Food and Shelter Programs vary by no more than 5% from 1991 resource levels, with a slight decrease in the funding for the Civil Defense activity. While the request for appropriations increases as noted above, the outlay estimate for 1992 decreases sharply, mainly because the majority of outlays from the Hugo and Loma Prieta disasters occurred in 1990 or are estimated for 1991 and then drop significantly in 1992.

In operating programs, specific increases in both staff and funding have been requested to provide enhanced emergency capabilities and to help mitigate the potential effects of future disasters and emergencies. Under the National Earthquake Program and Other Hazards activity, resources are targeted for enhancements to the existing earthquake program. The Training and Fire Programs will use increased resources to make needed training facility improvements, for curriculum enhancements, for sprinkler research, and for a hazardous materials information program for first responders. The Disaster Relief Administration request contains increased workyears and funds for enhanced program monitoring, financial control, and revision of program regulations. Enhancements to the Management and Administration Activity will provide for regional information systems coordinators, continued emphasis on improvements to the financial management system, meeting the requirements of the Chief Financial Officers Act, contract closeouts, and various uncontrollable price increases.

Other increases include resources for the Inspector General appropriation to meet the requirements imposed on the Office as the result of the creation of a statutory Inspector General in FEMA and the Chief Financial Officers Act. Estimates for the National Insurance Development Fund (NIDF) assume the continuation of the Crime Insurance Program through September 30, 1995.

The 1992 request contains two changes in presentation. A new activity, funded from the Disaster Relief Fund, called the Disaster Assistance Direct Loan Program Account, will provide for a loan subsidy and administrative expenses associated with states share loans made by FEMA under cost sharing provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. In addition, for the Flood Insurance and Mitigation activity, funding will be derived by reimbursement from the National Flood Insurance Fund, rather than by a transfer of unobligated balance from that Fund, as in the past.

In 1992, FEMA is proposing in appropriation language to recover fully the direct expenses of the Radiological Emergency Preparedness Program from the utility companies serviced in the licensing process with the funds being retained by FEMA. In addition, the full cost of the Flood Insurance and Mitigation activity will be recovered from flood insurance policyholders, as required by the Omnibus Budget Reconciliation Act of 1990.

CIVIL DEFENSE

FEMA requests $153,628,000 and 380 workyears, a decrease of

$4,880,000 and 8 workyears from 1991, for the Civil Defense activity in order to support the continued development and maintenance of base line, all hazard, emergency management preparedness and response capabilities at the Federal, State and local levels of government. The requested decrease is a modest reduction of 3.2%, but it is in line with current budget constraints and supports the administration's cost cutting measures to reduce the deficit.

The Office of Civil Defense is part of a proposed reorganization which consolidates emergency response planning for all hazards, and continues a consolidated approach to providing guidance and assistance to State and local governments for capabilities such as personnel, planning, emergency operating facilities, and communications that are common to all emergencies and unique to all forms of attack. I believe that this consolidation will provide a much-needed integrated and coordinated approach to response planning. Under this new concept, the Office of Civil Defense will also assume organizational responsibility for the Urban Search and Rescue initiative, for updating the Federal Response Plan and the Radiological Emergency Response Plan, and for exercising these plans. This organizational approach highlights FEMA's emphasis on response planning and on civil defense as an all hazards approach to emergencies.

The 1992 request represents a continuation of the balanced approach which began in 1989 to focus on these base line capabilities and is designed to reduce capability shortfalls by building an in-place, survivable crisis management capability at the State and local levels while relying on the development of a "surge" capability to satisfy the civil defense needs that can be deferred and require a large capital investment for their development. The primary use of the funds requested will be for grants to States to help State and local governments establish and maintain a capability to prepare for and respond to all major emergencies. This includes paying for a significant part of the salary and related overhead cost of approximately 7,000 emergency managers; development and testing of emergency operations plans and procedures; training of paid and volunteer emergency responders, i.e., police, fire, public works, medical, emergency management, Red Cross, Amateur radio operators, and other volunteers; and the maintenance of communications and hardware systems.

Plans are being made for surging the upgrade of communications equipment and emergency operations centers, installation of electromagnetic pulse (EMP) protection for Emergency Broadcast System stations, and the recruitment and training of radiological defense monitors and shelter management teams in the event of a crisis. The approaches developed are currently being field tested. However, surge implementation is time sensitive, requiring anywhere from six to twelve months to achieve its objectives.

Last year the Administration established an interagency committee to assess civil defense program requirements in light of current events. Subsequently, the House Armed Services Committee directed the Administration to undertake a major review of civil defense policies. Any decisions based on this assessment will be incorporated in next year's request.

NATIONAL EARTHQUAKE PROGRAM AND OTHER HAZARDS

The request for the National Earthquake Program and Other Hazards activity is $20,217,000 and 66 workyears, an increase of $2,667,000 and 8 workyears over the 1991 current estimate. This activity supports FEMA's statutory responsibilities as lead agency for the

National Earthquake Hazards Reduction Program and encompasses programs which work with State and local governments, volunteer and educational organizations and the private sector to reduce the potential loss of life and property from earthquakes, hurricanes, unsafe dams and related natural hazards. This is accomplished through comprehensive programs of mitigation, preparedness and response planning, training and public education.

Both Hurricane Hugo and the Loma Prieta earthquake illustrated the benefits of and continuing need for these programs. Planning efforts supported under the Hurricane program led to the successful evacuation of thousands of residents prior to Hurricane Hugo, and the earthquake mitigation and preparedness efforts undertaken with FEMA planning support and exercises in the San Francisco Bay area played a significant role in reducing the loss of life and property from building collapses in the Loma Prieta earthquake.

Increases in 1992 for the National Earthquake Program will emphasize expanding development of seismic design provisions for new and existing buildings; expanding mitigation activities; and strengthening FEMA's capability to effectively fulfill its statutory responsibilities as lead agency of the National Earthquake Hazards Reduction Program (NEHRP).

TECHNOLOGICAL HAZARDS

The request for Technological Hazards is $11,310,000 and 117 workyears, an increase of $207,000 over 1991. This activity supports FEMA's effort to provide technical and financial assistance in developing and fostering Federal, State, and local capabilities to prepare for, respond to, and mitigate the consequences of technological emergencies. The Technological Hazards budget activity is comprised of the Radiological Emergency Preparedness and Hazardous Materials Programs.

In 1992, under its Radiological Emergency Preparedness (REP) Program, FEMA will continue to assess the adequacy of State, local, and utility emergency planning and preparedness around fixed nuclear power facilities. Under the Hazardous Materials Program, FEMA will continue to emphasize development of a comprehensive exercise program with which to assess emergency planning and response capabilities at the State and local level. Additionally, FEMA will continue to expand the services and enhance the accessibility of the joint FEMA/Department of Transportation (DOT) Hazardous Materials Information Exchange, a major information source for State and local governments.

In the near future, FEMA will issue a final rule to establish fees that will be charged to utilities for services which are site-specific in nature, and which are performed by FEMA under the REP program. In keeping with the Administration's continuing emphasis on user fees, the 1992 budget proposes to recover the full cost of the REP program from the utility companies serviced in the licensing process. The fees would be credited as offsetting proprietary receipts of the Agency.

FEDERAL PREPAREDNESS

The request for Federal Preparedness is $156,374,000 and 942 workyears, a net increase of $6,643,000 and a decrease of 35 workyears from 1991. Because the bulk of the requested increase is to provide adequate funding for the workyears requested for 1992, the major portion of this increase is in the Government Preparedness Program, where 92% of the Federal Preparedness workyears are requested.

This request continues operation of the Emergency Information and Coordination Center. This program provides national-level emergency managers with data, communications support, and facilities to direct the national response to a wide range of emergencies.

In addition, this request provides funding for the Mobilization Preparedness and the Federal Readiness and Coordination programs. The Mobilization Preparedness Program ensures that Federal departments and agencies have in place plans, systems, procedures and resources to support national emergency mobilization, including civil sector support to a military mobilization. Under the Federal Readiness and Coordination Program, FEMA provides guidance to the Federal departments and agencies to prepare for and effectively respond to national security emergencies; manages the Federal response and recovery in the event of such emergencies; and plans, coordinates, and conducts national security exercises.

TRAINING AND FIRE PROGRAMS

The 1992 request for Training and Fire Programs is $30,862,000 and 124 workyears, a net decrease of $1,251,000 and an increase of 10 workyears from 1991. This activity provides the funds for the support necessary to develop and deliver the programs that prepare Federal, State, and local officials, emergency first responders, volunteer groups, and the public to meet the responsibilities and challenges of domestic emergencies through planning, mitigation, preparedness, response, and long term recovery. Fire prevention and control activities are developed and delivered through the United States Fire Administration and educational programs are accomplished through the Emergency Management Institute, and the National Fire Academy.

The 1992 request includes increases for curriculum enhancements; facility improvements; expanding residential sprinkler research and application, particularly the development and research of an effective self-contained system for mobile homes and single-family residences in rural areas; and full implementation of a viable hazardous materials information program for first responders.

Since our appearance before this Committee last year and after review and consultation, I have made the decision to place the National Fire Academy back under the organizational control of the United States Fire Administration and place the Emergency Management Institute under the State and Local Programs and Support Directorate. Both training institutions will continue to co-exist at the Emmitsburg facility with the United States Fire Administrator responsible for the operation of the facility. Program coordination between the National Fire Academy and the Emergency Management Institute will be a continuing emphasis.

MANAGEMENT AND ADMINISTRATION

The 1992 request for Management and Administration includes $52,275,000 and 477 workyears, a net increase of $7,483,000 and 10 workyears over the 1991 current estimate. The net increase in this activity includes resources to eliminate the backlog of security investigations and contracts which need to be closed out. Moreover, the increase in resources will continue to fund improvements to the Agency's financial management systems as well as the requirements of the Chief Financial Officers Act and will provide information systems coordinators to the regions to assist them in coping with the increased agency reliance upon automated systems. Additional resources are also requested for uncontrollable cost increases for rent, supplies, equipment, and maintenance.

INSPECTOR GENERAL

In 1992, FEMA is requesting $5,144,000 and 70 workyears for Inspector General activities, an increase of $1,793,000 and 10 workyears over 1991. The increases requested for 1992 will be utilized to improve the audit cycle with expanded coverage of FEMA programs and operations, to conduct pre-award contract audits and contract close-out audits, to reduce the backlog of complex high dollar volume investigations, and to conduct audits required by the Chief Financial Officers Act.

NATIONAL FLOOD INSURANCE FUND

In 1990, the National Flood Insurance Program's (NFIP) policy base increased by over 175,000, or 8 percent, to approximately 2.4 million policies. This is just one indicator of the success of the NFIP's partnership with the private insurance industry as the most effective means of promoting the sale of flood insurance policies, providing improved services to insurance agents and brokers, and improved claims services to policyholders, should a catastrophic flooding event occur. At the end of fiscal year 1990, over 80 companies were actively writing in the program, representing over 1,800,000 policies or 77 percent of all flood insurance policies.

As directed by the Omnibus Budget Reconciliation Act of 1990, which authorized the NFIP through September 30, 1995, all costs for the floodplain management component of the National Flood Insurance Program and salaries and expenses for both Insurance Activities and Floodplain Management will be borne by policyholders. In 1991, a $25 policyholder service fee and other rating changes will be implemented to cover these expenses.

In 1992, FEMA is requesting $12,874,000 and 208 workyears for salaries and expenses for Flood Insurance and Mitigation, a net increase of $1,796,000 and 5 workyears over 1991. The increase is necessary to support implementation of the Community Rating System. This activity, which will credit community mitigation efforts by reduced flood insurance premiums, will create a major workload for the regional offices including responding to requests for information, technical verification of eligible community flood loss reduction actions, and additional compliance activities. Any cutback in other activities, in order to met these new demands, could expose the NFIP and related Federal disaster assistance programs to greater program expenditures.

NATIONAL INSURANCE DEVELOPMENT FUND

The Omnibus Budget Reconciliation Act of 1990 authorized the Federal Crime Insurance Program through September 30, 1995. FEMA continues to support discontinuation of the program. The program is expected to continue to require a taxpayer subsidy of over $1,200,000 per month through 1992 for fewer than 23,000 policies, of which 86 percent are in five states. In order to make the program more efficient and less costly to the taxpayer, FEMA will raise premium rates 15 percent each year as authorized by the Omnibus Budget Reconciliation Act of 1990.

DISASTER RELIEF

The 1992 appropriation request of $185,000,000 for the Disaster Relief Fund, coupled with anticipated recoveries of $50,000,000, will permit obligations of $235,000,000. This represents a prudent annual resource level for this Fund and reflects an expected return to a normal year of disaster activity following the unprecedented disasters and obligations which resulted from Hurricane Hugo and the Loma Prieta earthquake. Supplemental appropriations of $1.108 billion and $1.1 billion were approved in September 1989 and October 1989, respectively, to address the combined effects of these events. There will be a continuing high level of activity associated with the management and delivery of assistance for Hurricane Hugo and Loma Prieta during 1992. The primary uses of Disaster Relief Funds are grants to individuals, families, and State and local governments. In 1992, FEMA anticipates that it will support recovery operations in 24 Presidentially-declared disasters.

The request assumes that FEMA will take over responsibility from the Department of Education for administering disaster assistance to elementary and secondary schools, beginning in 1992. Funding will come from the Disaster Relief Fund. In addition, estimates assume that FEMA will subsidize up to $6,000,000 in loans for states' shares of assistance under the Stafford Act, but assume no loans under the Community Disaster Loan Program.

EMERGENCY FOOD AND SHELTER

FEMA is requesting $100 million to continue support to emergency food and shelter programs for the homeless through a national board of major private charities. This funding level reflects a decrease of $34 million from the 1991 level in accordance with the Administration's policy of shifting resources into programs that assist the homeless on a more transitional or permanent basis. This request is an integral part of President Bush's pledge to combat homelessness. Government-wide, the Administration proposes $846 million for McKinney Act programs, a $93 million increase over the enacted 1991 level. The budget request of $998 million for all homeless assistance programs is 13 percent above the 1991 enacted level. In 1992, FEMA's funds will supplement programs for the needy and homeless at more than 10,000 organizations in 2,300 jurisdictions.

Thank you, Madam Chair. My staff and I will be pleased to answer any questions.

Senator MIKULSKI. Thank you very much, Mr. Stickney for your testimony. You have covered a lot of ground in 10 minutes. I am going to acknowledge that Senator Bob Kerrey of Nebraska was here, and I want that noted for the record, he, too, is part of this debate going on on the RTC. He has a series of questions which we will submit to you for the record.

In addition, Senator Kerrey has submitted a statement which he requested appear in the hearing record. Without objection, so ordered.

[The statement follows:]

STATEMENT OF SENATOR KERREY

EMERGENCY MANAGEMENT IN NEBRASKA

I am pleased to welcome representatives of the Federal Emergency Management Agency to the subcommittee to discuss their fiscal 1992 budget request.

Last year, when the subcommittee held its hearing, parts of Nebraska had just been struck by a series of tornadoes and we were hopeful of a Presidential disaster declaration. Despite the fact that representatives of the Kansas City FEMA office came into the State to assist us with our assessment, the declaration was not forthcoming.

I recite this bit of history to make a point—a point which has been repeated by Nebraskans on numerous occasions over a period of years: it is very difficult to obtain disaster assistance from the Federal Government if you are a rural State. Often, you simply don't have the concentrated damage which makes assistance practically automatic. Yet, for the individual, the loss is no less than if it had occurred in downtown DC. And, for the farmer, left without the basic tools for his living, it can be devastating. I continue to believe that there must be a better way for FEMA and the Federal Government to deal with rural States.

On a more positive note, I can also report, however, that those in our State who have dealt with FEMA have indicated that once your people are there, they do a pretty good job. Our task is to get you there more often when the situation requires.

We have in Nebraska what I consider a superb emergency response capability. I have worked with our people since my days as Governor. I know of their commitment and their work. I also know that they have depended upon the Federal assistance available through the Emergency Management Assistance Program. Last year, their match was not the 50/50 which it is supposed to be but closer to 60/40. During the question-and-answer period, I want to explore this funding situation with you as well as the lack of funding for title III of the Superfund amendments and Reauthorization Act [SARA] which provides hazardous materials training grants. In Nebraska, we have more than 500 volunteer fire departments and training funds such as this are essential. I would like to see it continued.

Again, I welcome you to the subcommittee and I look forward to working with you.

ROLE OF FEMA IN NATIONAL DISASTER MEDICAL SYSTEM

Senator MIKULSKI. Mr. Stickney, in your testimony, you reiterated several times your belief in the FEMA people, both here and in various regions around the country and those who have special duty assignments like the Fire Academy. We do not call that into question. But very often the very nature of bureaucracies work against accomplishing the mission. We are going to go through our questions today, and a major part of our focus is something that you and I have had the opportunity to talk about, which is that FEMA, just as the Department of Defense, needs to have what we call a risk-based or threat-based approach, and also organize its priorities along those lines. That is part of what we asked GAO to tell us about.

Our own observations and our own President talks about a new world order. In the new world order, a nuclear attack on the United States has become less and less of a threat. This is one Senator that does not believe that the Soviets pose no threat. But it has become a diminished threat, and the increasing threats to civilian populations are either related to nature, earthquakes or hurricanes, or ecodisasters related to the folly of man, nuclear disasters, superfund site problems, the transportation of hazardous material that goes awry, and things like that. So we are interested in how to protect our civilian communities from those kinds of situations.

But let me get right to the questions. In a few short hours, we will be welcoming the President of the United States to talk about the end of combat in the desert. This subcommittee—and it is a very special day—and we are all relieved, not only that the combat has ended, but because of our weapons and the leadership provided, we were able to contain casualties. This subcommittee was very much involved in the casualty preparedness plan because of its role with the VA. Could you tell me what role FEMA played in Desert Storm, particularly as it relates to the national disaster medical system?

Mr. STICKNEY. Madam Chair, the national disaster medical system was developed back during the days of World War II as a way in which we could reinforce our capability in dealing with casualties and meeting the hospital and medical needs at that time. NDMS is still in place. It is jointly funded by FEMA, Veterans Affairs, and Defense, and it is under the leadership of the Department of Health and Human Services, under the Public Health Service. It was prepared along with the VA to provide the hospitalization and backup should the casualties have mounted in Desert Storm to some of the numbers that people were predicting early on.

Senator MIKULSKI. Was FEMA involved in talking about that? Were you all involved in the coordinating committees?

Mr. STICKNEY. Yes, Madam Chair, we are coordinator of that activity, just as we are coordinator of some of the other activities related to mobilization. But the operational activity, in this case, would come down through HHS and Public Health Service.

TRIGGERING NATIONAL DISASTER MEDICAL SYSTEM

Senator MIKULSKI. Well, then could you clarify for me, this, because we were told, of course, for casualty preparedness from the military from the desert theatre, the casualties would, of course, be treated in the desert and in Western European military hospitals, United States military hospitals. They would come in then, to U.S. military hospitals where if there was an overflow, they were to go to VA hospitals backed up by special trauma centers like the burn unit at Scott Key Hospital, a unique facility.

Also, that it was in some ways a dual system that in the event of an ecodisaster—let us take a nuclear accident or a Bhopal-like thing in the chemical valley in West Virginia, ghoulish things that we do not even want to contemplate what would occur. That NDMS goes into play and that our VA and our public hospitals are the backup to civilian-based hospitals. That is the way we understood the plan, and we thought it was a very frugal plan.

Now my question, though, in the event of an American disaster—and we will limit it now to say, ecodisaster—who is in charge of the national disaster medical system, and how is it triggered? In other words, who is in charge, where is the direction? Our President, for example, to move Coast Guard from a civilian agency to a military agency in time of combat signs an executive order. Who pulls the switch and says it is on?

Mr. STICKNEY. We have in place and we are operating under a Federal disaster response plan. Upon implementation, when the President designates a disaster as a national disaster, that plan provides for some 12 different agencies to work together with others in various functional categories in order to respond to the needs of the population. One of those categories involves the medical system, the Public Health Service, and the Veterans Administration.

Once the President has declared a national disaster or emergency, then FEMA, in conjunction with Public Health Service, would task the Public Health Service.

Mr. STICKNEY. To continue with whatever functions which would be required to meet the needs of the people and respond to the disaster, the Public Health Service would employ the national disaster medical system and would have full charge of that. Once again, FEMA would be coordinating that activity and would go through the other Federal agencies who are responding to the needs of the plan, provide transportation, or whatever else is needed in order for the Public Health Service to make sure the medical system could work.

Senator MIKULSKI. Then what is FEMA's role?

FEMA'S ROLE IN COORDINATION

Mr. STICKNEY. FEMA's role is as a coordinator to find the transportation, to ensure that if the hospitals need power or if debris needs to be cleared or whatever, those Federal agencies with those capabilities understand the needs and respond to them in a coordinated fashion.

Senator MIKULSKI. So really, it is the President declaring it a disaster area.

Mr. STICKNEY. Right.

Senator MIKULSKI. But in the meantime, a Governor probably would be the first in-front line executive to declare it, to mobilize their trauma programs; am I correct?

Mr. STICKNEY. Yes, Madam Chair; I believe that under the normal sequence of events, the Governor would declare an emergency and then——

Senator MIKULSKI. Then try to reach the President, when I say try to reach the President, that is usually farther down. But in the case of an ecodisaster, the Governor is already confronted with casualties long before the White House is involved.

Mr. STICKNEY. Right. Of course, on the technological side, there are other agencies who have direct response authorities and responsibilities too, such as the Nuclear Regulatory Commission, the Coast Guard, and EPA.

But we would hope that although a technological disaster happens fast——

Senator MIKULSKI. That is exactly it.

Mr. STICKNEY. We would hope that the response would be as fast as possible.

NATIONAL DISASTER MEDICAL SYSTEM EXERCISES

Senator MIKULSKI. Well, have you and HHS done any exercises, drills, or maneuvers on these matters? Is there a plan in place at the State level for the mobilization and utilization of local trauma facilities?

Mr. STICKNEY. We have, Madam Chair, at the national level a catastrophic disaster response group which meets regularly to work out the details needed for coordination, and at the regional level we have emergency response teams within which our regional directors do the same thing.

So the answer is yes, we have those understandings and we have the communications. When we do our exercises, such as the earthquake exercises and others, the NDMS system is included and involved as well.

Senator MIKULSKI. That is when you do the earthquake drills and so on. But is part of your work with State civil defense agencies?

Mr. STICKNEY. They are very much encouraged, Madam Chair. I think that the work that has been done at the National Fire Academy and the Emergency Management Institute has dramatically shown to State and local officials the importance of drills and practice exercises.

In addition to bringing groups into that facility each year, there are numerous exercises at the State, local, and county level that are done for that very purpose.

Senator MIKULSKI. I am going to go for my vote. But one of the issues that emerges is the transportation of the injured. Maryland, you might not know, has really been one of the pioneers in trauma medicine with Dr. Cawley, and so we are close to it and follow it.

The Maryland trauma people tell me that one of the most important things in trauma medication, of course, is the rapidity of movement of the injured, and that very often in areas, it is one of the most difficult issues to deal with.

That is why we were then wondering, how FEMA also is involved, and you talk about all that coordination. I've got to go vote, but I will be back. Do not go.

[A brief recess was taken.]

FEDERAL RESPONSE PLAN

Senator MIKULSKI. The subcommittee will reconvene.

Mr. Stickney, we were talking about the national disaster medical system, and I think we have covered those questions sufficiently for these hearings, and perhaps we will go into them when we do the dialog on the disaster plan later on in the cycle.

Mr. STICKNEY. Ma'am, if I may, we have a copy of our Federal response plan here which includes a summary of emergency support function No. 8 which deals with the issues you are concerned with.

We could enter that for the record if you would like.

Senator MIKULSKI. By unanimous consent, we agree to that, and would you, particularly as this hearing is concluded, show this to my staff because we want to follow up on it.

Mr. STICKNEY. Yes, Madam Chair.

[The information follows:]

[CLERK'S NOTE.—Because of its size, the document, "Federal Response Plan" will not be printed but is being retained in the subcommittee files.]

THREAT RANKINGS BY LOCAL MANAGERS

Senator MIKULSKI. I am going to move the hearing along. I must be with the majority leader at 4 for a meeting on an issue related to domestic policy we wish to present to the President.

So let me move along on the issue that I raised about a risk-based strategy in allocating resources; 2 years ago, the subcommittee—this was before your tenure—told FEMA to ask local emergency directors what potential disasters were the greatest threat to their communities.

The report found that many of the emphases in FEMA's budget did not correspond to the threats which they themselves identified. The subcommittee just received the updated report for this hearing, but have not had time to review it.

So my question or comments are that—could you tell us the ranking of the threats by the local managers, and does this correspond to the budget?

[Pause.]

Senator MIKULSKI. Do you want your assistant to help?

Mr. STICKNEY. I was not sure——

Senator MIKULSKI. You were not sure what I was asking?

Mr. STICKNEY. No; I was not sure if you were ready for the answer?

Senator MIKULSKI. Oh, yes; I am ready for the answer.

Mr. STICKNEY. The threat rankings appear on page 80 of that report and in that ranking it ranks not only the ranking as perceived by the State emergency managers, but the statistical ranking as well, such as deaths, economic loss, and both the average and the estimated maximum catastrophic loss.

The State managers ranked floods first; dam failures second; structural fires third; nuclear war fourth; nuclear plants fifth; and tornadoes sixth. But it is important to point out that these rankings, as perceived and as manifested by the concerns of the State emergency managers, do not dovetail with the average deaths per year from each of those sources.

So it gets to be a very complicated comparison, which I believe is somewhat taken out of focus because one, in ranking what might be the worst disaster, there is a tendency to think about the megadisaster, the worst possible case——

SARA TITLE III AUTHORIZATION

Senator MIKULSKI. Mr. Stickney, let me try to cut through this. In looking at last year's report, we note that out of the 24 different types of contingencies, local emergency managers ranked floods, power failures, and the accidents associated with the transportation of hazardous materials as their biggest threats.

How do you reconcile this with the request of zero funds for SARA title III training grants?

Mr. STICKNEY. Madam Chair, as I understand the history of the SARA title III, it has been a program for which there has been no authorization each year, but for which there has been an appropriation. Because of the lack of an authorization, we did not request the appropriation.

Senator MIKULSKI. But as I understand it, you request other unauthorized activities. Last year, a bigger fire share of the site administration than authorized. I know it was Emmitsburg. It is something of interest to me. But in your appropriation, there are other unauthorized activities.

Mr. STICKNEY. I would have to check that for the record and supply that. It was my understanding, Madam Chair, coming in here that we had some authorization for the others, but in this case, for the SARA title III, no authorization.

I would be pleased to supply that information.

[The information follows:]

AUTHORIZATION FOR FEMA ACTIVITIES

For fiscal year 1992, FEMA is not seeking any appropriations for programs which were not previously authorized, although in three cases, the regular annual authorization bills are pending at this time. The pending authorizations include a bill "to authorize appropriations for civil defense programs for fiscal years 1992 and 1993," another "to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, as amended," and a third "to authorize appropriations for studies under section 1376(c) of the National Flood Insurance Act of 1968 as amended."

FUNDING FOR PREPAREDNESS FOR NUCLEAR WAR

Senator MIKULSKI. With the threat of nuclear war with the Soviet Union declining, why does FEMA continue to propose level funding for civil defense activities?

Mr. STICKNEY. Madam Chair, the assessment of that threat is under constant review; there is no question about it. I must say that these are times for which it is difficult to assess precisely what that threat is.

I would suggest there are feelings relative to the capabilities of the Soviet Union, and a disorganization of the Soviet Union may well have changed that from last July until now.

It is not clear where we are going, but it is just as clear that we are in a time of great change. We hope that through the policy coordinating committees that we are on, and in responding to the mandate of the Armed Services Committee, we are going to be able to provide a measured, thoughtful response for where we should be going in the 1990's.

Senator MIKULSKI. Well, under both President Reagan and President Bush, significant achievements were made in the arms control area, really, most significant achievements, and yet, we are still acting like it is pre-Reagan.

Mr. STICKNEY. I understand that the world is changing out there, Madam Chair, and that the threat may well be a greater threat of a lesser attack or a terrorist threat, and we are, in conjunction with the other agencies with expertise reviewing that, and we will be reporting on that.

Senator MIKULSKI. When do you expect to make some final conclusions?

Mr. STICKNEY. We expect to have those ready for the next budget process, for the 1993 budget.

Senator MIKULSKI. A year from now?

Mr. STICKNEY. Yes, ma'am.

Senator MIKULSKI. Well, we believe that though the threat has diminished, there still is a threat, so we accept that as the premise. We also know that we are threatened by terrorist attacks, and I think one of the reliefs we all share as we come out of Desert Storm, the fears we had, the attacks we had anticipated did not occur.

But that does not mean we are in a fail-safe environment. What that then says, your civilian or your civil defense activities, oriented to a nuclear attack, are you saying they are identical to those as a terrorist attack?

Mr. STICKNEY. Madam Chairman, many of the activities funded under the present civil defense program are dual use and dual purpose. Evacuation plans are utilized on essentially a weekly basis around this country for various natural and technological hazards.

A terrorist attack could require the evacuation of a relatively small region or a community, rather than an entire State. So that there are many commonalities and much of what is done at the present time can be utilized, whatever the threat.

PLACEMENT OF EMERGENCY OPERATING CENTERS

Senator MIKULSKI. Well, just sticking to the nuclear threat area, there seems to be a contradiction. We understand a couple of years ago you quit providing funds for States' emergency operating centers if they were located in a probable nuclear target area.

Why? Why would we do this, if we say, we are worried about nuclear attacks and terrorist action; but we are not going to give you command and control centers if you are in a probable nuclear area.

Mr. STICKNEY. Madam Chair, I believe the policy decision then was to encourage, to the greatest extent possible, that these survivable emergency operation centers be located outside the area of expected attack, simply to ensure that, to the greatest degree possible, they could function.

Senator MIKULSKI. Let's say a nuclear attack hits the Washington area, the only point outside of this death circle for Governor Schaefer would be the Eastern Shore, but he is faced——

[Laughter.]

Senator MIKULSKI [continuing]. At least he was safe over there, and the command and control say was in West Virginia or a surrounding area. Who would they be calling? How would they be able to coordinate if there was no local facility or does that show that you really cannot plan for a nuclear attack?

Mr. STICKNEY. Madam Chair, I think we——

Senator MIKULSKI. Who is the 911 that they would call?

Mr. STICKNEY. In the event of an attack, we hope that our plans for continuity of government, for utilizing our control facilities nationwide would operate. We have practiced that, and we believe they would.

But I must say, we do not discriminate only against nuclear bombs. We would not approve or would not fund an emergency operating center that was located on an active earthquake fault or in erating center that was located on an active earthquake fault or in an active earthquake area or in a flood plain or in a coastal area where they might be subject to tidal surges and that sort of thing.

The goal was simply to make those as robust and as survivable as possible under all conditions.

FLOOD INSURANCE IN MISSOURI

Senator MIKULSKI. We are joined by Senator Kit Bond, a former Governor. I think being a former Governor is like being a former marine, you are never a former Governor. You are always a Governor, for any comments and questions he might have.

STATEMENT OF SENATOR BOND

Senator BOND. Thank you, Madam Chair. I begin by expressing thanks to FEMA, which for 8 years of my service as Governor of Missouri responded to many and sundry different disasters.

I know last year you provided about $7 million in assistance for the devastating spring floods. It is a pleasure to be able to work with you in my new role and I am honored to be able to join Madam Chair and the other members of this subcommittee.

Before I get into the tough questions, I want to let you know how much we in Missouri appreciate the work of Jerry Jennings, Bud Schauerte of region 7 and others, who cooperated with us in Missouri last year when we faced the loss of national flood insurance coverage in 60 counties.

I am very pleased that FEMA and the Federal Insurance Administration did give Missouri a window of opportunity which allowed our Missouri General Assembly to develop a law which was immediately signed by Governor Ashcroft within hours of its passage, to bring Missouri back in compliance.

Sometimes things do not go smoothly, even in State government, although I maintain it is still a model of operating efficiency, despite my disagreements with it, particularly when looked at other examples that may be closer at hand.

But during our troubles last year, as I traveled across the State, I heard one consistent theme, and that is the importance of flood insurance for families and business owners who rely on coverage to protect the roof over their head and the bread on their tables.

Missourians also understand and support FIA's responsibility to administer a program which is actuarially sound, and we do not want to see the FIA become the next bailout disaster. We have already enjoyed as much of that as we need.

Unfortunately, there are some questions and some doubts that I hope you will be able to clarify for the participants in the flood insurance program in Missouri. In particular, farmers are deeply concerned that the new regulations may interfere with the farmers ability to use the floodway and the fringe for agriculture use.

There are certain areas, St. Charles County in Missouri, where there are miles and miles and miles of floodplain. If you are going to farm it, you have to be able to have some kind of shed for the equipment there, otherwise you cannot farm it. You would have to leave your equipment out in the elements. It is simply too far to bring it in every day.

One of the legislators from the area wrote me and asked what guarantee do we have that next year FEMA will not insist that the floodplains be free of all impediments such as growing crops and orchards.

Thus, I would address to you the question, will crop production be affected by the new regulations which affect Missouri now and will soon affect six more States, and how would crop production be affected or not affected in the future by new interpretation of FEMA's authority?

AGRICULTURE IN THE FLOODWAY

Mr. STICKNEY. Senator, I would like to say at the outset that during your years as Governor, I enjoyed very much working with your staff, and enjoyed the relationship through the National Governors' Association.

There is absolutely no intention, and as I understand it, no way that the flood insurance program could prohibit the growing of crops on the floodplains. That is not the desire, nor the intention, nor the goal. Our concern is with the vulnerability of buildings and structures.

LEAN-TO SHEDS IN FLOOD AREAS

Senator BOND. If a lean-to shed which is necessary to protect the machinery that is needed to work the land is destroyed in a flood, will the farmer be prevented from building or rebuilding only such structure as is necessary to protect the agricultural equipment that cannot be moved in and out everyday, while that segment of the land is being farmed?

Mr. STICKNEY. Senator, I would like to ask Bud Schauerte, the Administrator of the Federal Insurance Administration, to answer that question because it is a bit more detailed than I am able to handle at this point.

If I may——

Senator BOND. It is probably a bit more detailed than I am able to understand, but I assure you, we have a number of people in my State for whom that is a very, very real concern.

Mr. SCHAUERTE. Senator, thank you. My name is Bud Schauerte, I am the Federal Insurance Administrator.

Senator BOND. I apologize for mispronouncing your name. I gave it the best shot I could.

Mr. STICKNEY. Senator, we all mispronounce his name.

Mr. SCHAUERTE. I do not think that the farmers, particularly in the area that you are referring to, will have too much concern with regards to the coverage.

Remember, we are in a program to sell insurance policies and to pay claims. We are not there to deny them. To answer more fully the question that you made to the Director, the recent bill that passed the Missouri Legislature and signed just 3 or 4 days ago, specifically exempts from regulation crops, cattle, forestry, orchards, and other types of agricultural work now done by the farmers.

I do not think there should be any concern about the payment of claims. Some of these structures that the farmers have built, particularly in that area in St. Charles County, constitute a pretty big investment, and I am sure that many of these people would like to have, and should have, these structures insured.

As far as the lean-to is concerned, and those types of structures, there is enough flexibility in the program, I believe, to provide coverage, depending on the type of structure we are talking about.

Senator BOND. So there is a rule of reason——

Mr. SCHAUERTE. If you are talking about a lean-to, if you are talking about something that is maybe a little bit more robust than a tent or something like that, maybe not.

If you have heavy and expensive equipment, I am sure you are going to put it into a type of a structure which will provide it good flood protection, and that is the type of structure we certainly will insure.

Remember, we are in the business to sell insurance and to pay the claims. I appreciate your comments earlier; we did work very hard to try to prevent any kind of suspension in all of the 60 counties you are working with. The bill which raised a bellwether piece of legislation because there are other States that have similar concerns about agricultural exemptions. We do appreciate the bill passing the Missouri Legislature.

Having attended the University of Missouri and feeling very close to Missouri, I do follow exactly what is happening in the State of Missouri. So I know what you are talking about, and I know St. Charles County very well.

Senator BOND. They will write letters——

Mr. SCHAUERTE. Yes; we have received some too.

Senator BOND. I am sure that you have received probably as many of them as I have.

Well, I think that is very helpful. That is very important for us to be able to reassure the people in that area, and I am sure that this will have application in other areas.

Mr. Stickney, the other major source of concern that we hear in my office from Missourians is really the degree of oversight FEMA will exercise over local decisions on variances.

My office has been repeatedly assured by your regional officials that action to sanction a county depends on a pattern of flagrant violation of reasonable standards for construction activity, and we interpret this not to mean that FEMA would discipline a county which chooses to grant a variance to a farmer, for example, as I said, for rebuilding of a tool barn, or that FEMA will allow a variance only if such structure were constructed and their concern, is elevated to an event which would prove cost prohibitive.

So I would just seek your assurance that that is a reasonable understanding of how the system would work.

Mr. SCHAUERTE. Yes, sir; that is a reasonable understanding. I am sure that anyone who will build any kind of a structure would understand that it is in their best interest to have that structure well protected and built properly above the base flood elevation.

They may call upon our regional people at any time for any type of help or guidance in that area. In most cases, it is only slightly more expensive to build according to the standards of the National Flood Insurance Program as it would be to build it another way.

I am very pleased to know that many of the farmers are complying with the National Flood Insurance Program standards, and we hope to get a community rating system going in that area so that we can build higher standards.

Mr. STICKNEY. Senator, I would agree, based on my own State experience, that at times this does appear to be a program in which we make the easy decisions here in Washington, and the people on the scene at the county and town levels out there have to make the really tough ones.

We hope we understand that, and we hope we are sympathetic to their needs.

DISASTER UNEMPLOYMENT ASSISTANCE ELIGIBILITY

Senator BOND. I have a question that I would like to ask on behalf of Senator Garn who advised that he has received significant concerns in the interpretation of the Disaster Unemployment Assistance Program which provides unemployment benefits and reemployment assistance to individuals who lost their jobs due to a disaster.

He states, that while individuals are entitled to such assistance for a 26-week period following the disaster declaration, it is possible that where the disaster began sometime before the declaration, the current interpretation of the law is that this additional period is tacked on to the 26 weeks of payment eligibility, and that it is possible in the case of the volcano eruption in Hawaii, there are some individuals who might be eligible for nearly 7 years of benefit payments, and that a similar situation might arise if a disaster is declared for the long-running California drought.

Is this a legitimate concern? Is there any effort to correct to what to many of us would seem to be a bizarre application of disaster unemployment benefit eligibility? I would like to know what the current costs of the extended benefit eligibility might be and whether there are additional corrections and clarifications to prevent potential abuse of the program?

Mr. STICKNEY. Senator Bond, Senator Garn has described the situation accurately. Through interpretation, it has been determined to be a program which has an end 26 weeks after the declaration, but almost an indeterminate beginning.

That has been recognized. I believe the Senator from Hawaii has filed legislation which would limit that unemployment period to 26 weeks. We support that legislation and believe it is absolutely necessary to bring a sense of order to the situation.

There may need to be, however, a caveat that might protect people who have already taken advantage of that interpretation, so that their interests would be protected.

Senator BOND. Madam Chair, that takes care of my questions. I gather I am late for some other responsibilities.

Senator MIKULSKI. I know; I overheard your staff. But Senator Bond, if you have any other questions, we will happy to enter them into the record.

Senator BOND. I think we will send the answers back home. Mr. Stickney and his associates have been most helpful I believe, and I think that we may significantly allay many of the concerns that have been raised.

I have a feeling that additional questions will arise. We look forward to discussing those with you, but I thank you, gentlemen. I believe that you have at least resolved a number of the pressing questions.

Thank you, Madam Chair.

EMERGENCY FOOD AND SHELTER

Senator MIKULSKI. You are quite welcome.

Mr. Stickney, I want to go on to the Emergency Food and Shelter Program. As I understand it, the program has been authorized at $150 million for 1992. The administration now wants only $100 million saying they would rather fund the more permanent HUD homeless programs. You, yourself, indicated that in your testimony.

This program does many things HUD does not do such as fund soup kitchens, provide food bags to the needy, and reaches many more communities than HUD does.

You are asking $100 million for the Emergency Food and Shelter Program. Could you tell us how those needs would be met, particularly for food bags, the financial support to food banks—a marvelous community tool—and soup kitchens that are really on the frontline of meeting the needs of the homeless?

We know that what you meet is the emergency needs, not the long-term issues of addressing the homeless.

Mr. STICKNEY. Madam Chair, I have the highest regard for that program, and I have had the opportunity to meet with the national board as well as a board in Austin, TX, a couple of weeks ago, and I cannot tell you how impressed I am with their service.

I also think, if I have done my arithmetic right, the administrative costs of that program are something less than 3 percent of the program, so I like the program from that point of view as well.

However, I believe that this change is an attempt by the administration to get at some of the chronic, baseline problems of the homeless, and it is the opinion that I am sure you will be hearing in other committee hearings, that there are other programs that might be able to get at that chronic baseline more than this one does.

Senator MIKULSKI. Well, in my own State of Maryland, HUD allocated funds to Baltimore City and four other counties in the Baltimore/Washington area, and we are appreciative of those funds.

But FEMA's funds went to Baltimore City and 23 other counties, particularly the rural ones, and ones where poverty is much higher even than in my own hometown of Baltimore City: Somerset County, over there on the Eastern Shore, up there in western Maryland, where we faced a lot of plant closings.

HUD just does not do it. As the administration wants to focus on long-term solutions, have they, as you have gone through your hearings, analyzed how those 19 other counties would get help?

I only use Baltimore as a cameo. We could take other States around the Nation to show that a few counties are helped, but a significant number are not, and you are in every single area.

Mr. STICKNEY. Madam Chair, I am not aware of all of the discussions that went into this policy change, but I am sure that through the appropriations process, that these issues can be shaken out and the appropriate degree of importance assigned to each one.

I am not able to answer that question though, as to how the other program would affect those communities.

DECISION ON FOOD AND SHELTER

Senator **Mikulski**. Who made that decision to do it this way?

Mr. **Stickney**. There was an administration decision, Madam Chair, and it was an attempt, I believe, to get at the chronic homeless, those with alcohol and drug problems, and an attempt to help to get at that baseline problem which seems to be there all the time.

Senator **Mikulski**. We welcome that, but it seems that we are using one in lieu of the other, rather than in addition to.

Was that decision made at the OMB level or the HUD level, because we want to have further conversations with the administration on that?

Mr. **Stickney**. Madam Chair, all I can say is that it was an administration decision. I am not clear which part of——

Senator **Mikulski**. But the administration has little compartments to it.

Mr. **Stickney**. Yes.

Senator **Mikulski**. Was it HUD that recommended this or was it at OMB?

Mr. **Stickney**. Madam Chair, I just cannot say; I do not know.

Senator **Mikulski**. So you do not know?

Mr. **Stickney**. I do not know.

Senator **Mikulski**. Would you be kind enough to let us know because I think this is very serious, and we know that the President has supported the full funding of the McKinney Act which we hope to be able to do.

We know that the administration, through Mr. Kemp, has a Shelter Plus Care Program, which we hope to work with him on, and there are a variety of others.

But right now, we kind of made it through with a winter that was not as cold as we had anticipated, but there are still a tremendous amount of emergency problems.

So we want to be able to talk with some folks other than FEMA on this. Would you—and we will ask the same question.

Mr. **Stickney**. Yes, ma'am.

[The information follows:]

EMERGENCY FOOD AND SHELTER

The 1992 request for the Emergency Food and Shelter Program is in keeping with the administration's policy as reflected in the 1989 report of the Interagency Council on the Homeless.

CLOSING

Senator **Mikulski**. Mr. Stickney, we had many more questions that we would like to ask, but unfortunately, because of votes and Senators Hollings' testimony, we have gone a little bit longer than I had expected, and I need to be in the majority leader's office.

So I am going to take the remaining questions I have and submit them for the record, as have other Senators.

I want to thank you for the candor in which you have answered these questions. There are many more issues we hope to be able to go over, and as we go through this appropriations cycle, we know that we want to use our money smarter, whether it is in disaster relief, or in caring for the homeless, and we will look forward to other conversations with you.

So we thank you for your cooperation and I am just sorry we cannot spend more time this afternoon.

We also want to acknowledge the presence of the inspector general of FEMA, Mr. Russ Miller, the new inspector general. We are going to ask that his testimony be entered into the record and such questions that we might have.

INSPECTOR GENERAL'S OFFICE

We know that he is interested in updating his staffing requirements, and that there are certain tools that he needs to run a contemporary inspector general's office.

So, where are you, Mr. Miller?

Mr. MILLER. Right here.

Senator MIKULSKI. There you are. Mr. Miller, we know some of your requests. We want your report to be in the record. We know how you want to upgrade the IG's Office, though it has done a fine job in the past, and we look forward to cooperating with you.

We are a strong believer in the inspector general system and wish to do all we can to fully cooperate with your requests.

[The statement follows:]

STATEMENT OF RUSSELL F. MILLER

Madam Chair and members of the subcommittee, I appear before you today to present testimony on the budget request for the Office of Inspector General, Federal Emergency Management Agency, for the fiscal year 1992.

The total amount of funds requested for my Office is $5,144,000. This includes 70 full-time equivalent personnel. Compared to fiscal year 1991, the requested appropriation would increase by $1,793,000 and the full-time equivalent needs by an additional 10 personnel.

The reasons for our request include the following: (1) The statutory position of inspector general at FEMA was established by the 1988 amendment to the Inspector General Act which assigned significantly increased responsibilities to the inspector general; (2) less than one-third of the overall auditable activities within FEMA have ever been audited by the Office of the Inspector General; (3) most of the sensitive and complex activities of the National Prepareness Directorate of FEMA have not been audited since its inception; (4) audits of the Federal Insurance Administration and the Disaster Assistance Program in the State and Local Programs and Support Directorate need to be expanded in scope and depth, particularly because of the large amounts of money expended in these programs; and (5) our current complement of 21 auditors and 10 investigators requires augmentation both in grade level and numbers of personnel to permit sufficient coverage of FEMA's budgeted activities which are projected at $723,515,000 for fiscal year 1992.

Thank you, Madam Chair. I will be pleased to answer any questions you may have.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

EMMITSBURG ACTIVITIES

SENATOR MIKULSKI: What caused the relatively significant number of Fire Academy personnel losses cited in your February 26, 1991, staffing report?

ANSWER: The February 26, 1991, staffing report reflects five losses for the Fire Academy. These losses are due to two internal reassignments (Office of Fire Prevention and Arson Control under the U.S. Fire Administration and Emergency Management Institute), one retirement, and two resignations. It should be noted that the last staffing report was dated September 30, 1990; therefore, the losses occurred over a four-month time period.

STATUS OF DISASTER RELIEF FUND

SENATOR MIKULSKI: How much money was unobligated and unallocated; i.e., available for as yet undeclared disasters, on October 1, 1990?

ANSWER: The unobligated balance carried forward from FY 1990 was $451,378,647. Of that amount, $126,070,360 was unallocated.

SENATOR MIKULSKI: How many disasters have been declared thus far in FY 1991?

ANSWER: There have been 20 major disasters declared by the President so far during FY 1991.

SENATOR MIKULSKI: How much money remains at present that is available for future declarations?

ANSWER: As of April 17, 1991, approximately $116 million is available for allocation for high priority obligations for ongoing current and future disasters. All funds are now being controlled at Headquarters for allocation and obligation.

Our normal procedures allow for an allocation to the Regional office administering the disaster. The Regional staff control and obligate the funds for all eligible applications. Obligations are incurred after completion of Damage Survey Reports and approval by the Disaster Recovery Manager.

On March 15, 1991, we amended the procedures for incurring obligations. We administratively recalled all available funds from the Regions to Headquarters. This was necessary in light of the limited amount of remaining disaster funds. This action resulted in approximately $139 million being returned to Headquarters.

Limited obligation activity since has reduced the fund balance to approximately $116 million. With this financial picture, we will not have sufficient resources to support all disaster relief programs to the end of the fiscal year. As a result of this limited fund balance, we have established a reserve to address ongoing and future individual assistance programs and expenditures necessary to administer these programs. If these funds are not required for the individual assistance programs, additional obligations for public assistance projects will be made.

SENATOR MIKULSKI: Based on past experience, are the remaining available funds likely to be sufficient for the remainder of FY 1991?

ANSWER: For the past ten fiscal years, the average amount of obligations is over $430 million. Excluding Hurricane Hugo and the Loma Prieta earthquake from these calculations, the average would be over $260 million. From 1974 to 1990, the average (including Hugo and Loma Prieta) is over $401 million, and the average excluding Hugo and Loma Prieta, is over $306 million. Given the unusually high rate of disasters this fiscal year, if you prorate these historical averages to the amount of time left this fiscal year, we will fall short of the amount needed.

SENATOR MIKULSKI: Why, after previously citing $270 million as your typical historical needs, do you consider $185 million, or even $235 million, to be sufficient, particularly when picking up Department of Education responsibilities?

ANSWER: The appropriation request of $185 million and estimated obligation level of $235,000,000, in our Fiscal Year 1992 budget request represent a prudent annual resource level for this fund and are intended to provide for the expectable occurrence on non-catastrophic disasters and emergencies. However, to date, 1991 has proved to be an extraordinary year. Because of the number and magnitude of disasters thus far, we will be carrying substantial requirements into Fiscal Year 1992.

SENATOR MIKULSKI: In recent years, how often would your FY 1992 budget request be sufficient?

ANSWER: Of the past ten fiscal years, the estimated obligational level of $235,000,000 would have been sufficient in FY 1982, 1988, and 1989.

DISASTER ASSISTANCE ACTIVITIES

SENATOR MIKULSKI: When will we receive your recommendations on if and how FEMA should take on more of a "911" role (as requested by this Subcommittee in last year's hearing)?

ANSWER: In addition to the verbal request made at the hearing, page 117 of the FY 1991 Senate Appropriations Committee Report, under "Committee Recommendations," includes the following statement:

The Committee directs FEMA to submit to the

Congress, by June 30, 1991, a report containing (1) an analysis of whether the disaster relief process can be enhanced by FEMA assuming a more active role in the initial response to a disaster, and prior to a disaster in cases such as hurricanes which can be anticipated in advance, and based on that analysis, (2) recommendations for legislative or regulatory changes.

We assume that the report will help satisfy the hearing request as well, and we are working on it.

Meanwhile, we have reviewed our experience in response to Hurricane Hugo and the Loma Prieta earthquake and have determined, generally, that there are a number of areas in which FEMA could improve the timeliness of its response and better position itself to provide immediate life-saving assistance in response to catastrophic disasters. A number of these improvements could be accomplished through changes in plans and procedures and have already been initiated, including such things as rostering FEMA and other federal agency regional staff on Regional Emergency Response Teams that have pre-determined assignments and emergency deployment procedures. These improvements are all detailed in the Hurricane Hugo/Loma Prieta after action report currently nearing completion.

SENATOR MIKULSKI: Last year (page 122, Senate Report 101-474), we recommended that FEMA examine the feasibility of a deployable facility for use by FEMA personnel in a disaster area.

Did the examination find such an operation feasible?

Would it not, for example, have been useful in the Virgin Islands, or perhaps in areas of South Carolina?

Did you determine what it would cost to develop and procure such a piece of equipment? How many would you need?

ANSWER: The Office of Civil Defense developed one option to provide a deployable capability and examined the feasibility of acquiring and operating it for use by FEMA personnel in major disasters. Such a capability is feasible, and would have been useful in the Virgin Islands and in South Carolina during Hurricane Hugo and in similar situations when initial Federal response or recovery personnel require food, water, sanitation, housing and security in order to operate in the stricken area. The option developed included:

- Travel trailers configured for Office, sleeping, and mess operations with internal water, power, and sanitation systems.
- Tow-behind 50KW generator to back-up all equipment.
- Ruggedized four-wheel drive vehicles to tow trailers and for operational use on site.
- One 15-passenger van.

- Food, foul weather clothing, consumables for 50 people for seven days.
- Transportable KU Band Satellite communications, Operations SECURE High Frequency radio system compatible with State government systems, and UHF/VHF handheld/vehicle mounted radio system with base station for local area communications compatible with local first responder capabilities.

The option assumed that three such units would be located at sites throughout the United States. The total first year cost to acquire the three units is estimated at four million dollars. The estimated resources also include seven FTE: one at Headquarters and two to maintain and operate each of the three units for a total of six FTE in the field.

SENATOR MIKULSKI: The recent GAO report on Hurricane Hugo indicated that such a project was desirable, and that funds would be sought in 1992 to develop it. Is it included in the budget proposal, although not specifically identified as a line item?

ANSWER: Given the need to exercise restraint in budget matters across all levels of government, FEMA has decided to explore what resources are available elsewhere in the Federal government to determine if other agencies have resources that will address the requirements we have previously identified. We have decided not to request funding for this initiative until we are satisfied the necessary resources are not available elsewhere.

SENATOR MIKULSKI: Last year (page 550, published hearing), you advised us that a study of other nation's disaster relief policies and procedures warranted consideration. Was any action taken in that regard.

ANSWER: No. Disaster activity has remained very heavy (there were 35 disasters declared in Fiscal Year 1990 and there have already been 20 disasters declared thus far in Fiscal Year 1991; the average number for an entire year is 24), which has limited our ability to conduct desirable, but non-essential projects such as the above comparative study.

SENATOR MIKULSKI: If another Hurricane Hugo hit today, i.e. while a major military contingent is deployed overseas, how much help could you get from DOD compared to 1989? Does this suggest you need your own inventory of generators, trucks, etc.; or do you see other options?

ANSWER: At critical points during the build-up of U.S. Forces in the Persian Gulf during the past year we consulted with the Pentagon with respect to the implications for their ability to support domestic emergency response missions. There is no question that during this deployment DOD had, and largely continues to have even now, a diminished capability to provide support for domestic emergency assignments. With respect to most of the equipment required for disaster response, there are suitable options. Indeed, most of these options, such as private contractors or agencies such as the U.S. Forest Service, are preferable sources of assistance even in the absence of a military deployment. The one area of concern, in which DOD has unique assets, is in the area of air-lift capabilities. All regular duty military, and a measure of private sector air-lift capabilities, in the form of military cargo aircraft and commercial wide-body planes, have been dedicated to the military deployment. In order for the military to provide air-lift support for domestic emergencies during this deployment, DOD would have to tap Reserve and National Guard aircraft. The result would be, according to DOD, that it might take longer to access aircraft, because of activation procedures and geographic dispersion, and the aircraft available might not be optimal for the job at hand. DOD has indicated, however, that with these caveats in mind, they could continue to provide support for domestic emergency response.

SENATOR MIKULSKI: You did in fact purchase generators and other equipment as a result of Hurricane Hugo. Will you keep this equipment for future use, or dispose of it?

ANSWER: We have retained some of the generators and other equipment. In Puerto Rico, we have retained and are maintaining thirty-five (35) generators; in the U.S. Virgin Islands FEMA is maintaining twelve (12) generators and has transferred an additional eight (8) generators to the Federal Aviation Administration (FAA).

SENATOR MIKULSKI: At one time we understand you had decided to dispose of your inventory of mobile homes. Is this still the case?

ANSWER: FEMA has no plans to dispose of its mobile home inventory. The use of mobile homes is the last chosen in a series of program options for delivering disaster housing assistance, primarily because of the timeliness, complexity and cost factors involved.

Providing financial assistance to eligible applicants to assist with renting existing housing resources or making repairs to their homes greatly enhances the speed with which assistance can be delivered and provides individuals with the opportunity to direct their own recovery efforts.

As the catastrophic disaster incidents of 1989 proved, there are occasions when the magnitude of the disaster or the isolation of the stricken community requires solutions other than providing financial assistance to eligible applicants to assist with renting existing housing resources or making repairs to their homes. For this reason, FEMA intends to explore as many options as are economically and practically feasible in providing for the disaster-related housing needs of the disaster victims, including the provision of mobile homes where necessary.

SENATOR MIKULSKI: Explain why, for 1992, you are requesting $5.9 million to add 36 more FTEs, after telling us last year (See page 551 of published hearing) that the present level of 233 is enough?

ANSWER: The new 36 FTE's would result in a net gain for Disaster Relief Administration of 31 FTEs. Five workyears were eliminated because FEMA would have insufficient resources to support them.

As stated last year, the present level of 233 was considered adequate assuming a "normal" disaster year. The months since Hurricane Hugo and Loma Prieta, however, have proved to be anything but "normal". Fiscal Year 1990 resulted in 35 disaster declarations in 585 counties with an estimated cost of over $800 million (an average year has 24 disaster declarations in 254 counties with a cost of $270 million). As of this date, Fiscal Year 1991 has had 20 disaster declarations in 301 counties with an estimated cost of $250 million. With half of Fiscal Year 1991 still ahead, it appears that this year will again see disaster declarations far above "normal". This extremely heavy disaster activity, when combined with continued demands on staff resources from the Hurricane Hugo disasters, has resulted in the need for additional staff to adequately manage our ongoing workload.

Most of the requested positions (27 of the 31) will be used for internal controls, updating and revising program regulations, issuing long overdue guidance for State and local governments, and management of ongoing projects. The focus of these positions will be on project and financial management--fostering better tracking and accounting of disaster funds and better monitoring of associated projects. Of these 27 positions, 20 will be located in the regions, 7 in Headquarters. The remaining 4 positions will be Headquarters FTE for on-site management of the teleregistration facility.

Part of the requested funds will, of course, be utilized to support the additional FTEs. The remainder will cover expenditures for the establishment of a permanent teleregistration facility.

SENATOR MIKULSKI: We understand you have been working on a "lessons learned" report for Hurricane Hugo and Loma Prieta. When might you have something we can see?

ANSWER: After action reports have been prepared for all four Hugo disasters and an after action report for the Loma Prieta disaster is in process in Region IX. The self-critique, "lessons learned" report is being reviewed in the Agency. It should be available within a month or so.

REPORT ON PRINCIPAL THREATS FACING COMMUNITIES AND LOCAL EMERGENCY MANAGERS

SENATOR MIKULSKI: In asking you to update this report for 1991, we requested that you justify any deviations of funding requests from the threats as perceived at the local level. The report transmittal letter states that the budget covers all specific threats except tornadoes and that in many cases the funds can be used to meet all threats so long as they also meet attack threats. As you no doubt anticipated, that response does not suit our expectations.

As one example of the type of our concern, you propose $1.741 million for hazardous materials planning and assistance, and $3.237 million for comparable efforts in radiological defense. Presumably, some conscious decision based on severity of threat, frequency of threat, number of localities involved, etc., resulted in a decision that radiological defense warranted nearly twice the effort as hazardous materials.

What is this basis or thought process?

ANSWER: Civil Defense provides support to State and local governments for building a generic emergency management capability to plan for and respond to all hazards. Civil Defense provides people, facilities, equipment, and training which is applied to all hazards, it provides a base In the case of the Radiological Defense (RADEF) program, the capabilities provided are designed for attack emergencies. But the people, plans and equipment are also used for dealing with nuclear power plant accidents, nuclear weapons accidents, transportation accidents including nuclear materials, and even cases where a nuclear satellite falls from the sky. The key is that RADEF provides a capability to measure radiation and plans to ensure that the people are protected. The cause of the radiation threat is less important than knowing what to do about it, how to do it and having the equipment and trained people necessary to do it. We are working very hard to ensure that the national defense funds we spend in Civil Defense provide capability to State and local government to deal with the consequences of emergencies of all kinds.

While the Federal Emergency Management Agency coordinates emergency management activities on behalf of the President and provides substantial assistance to State and local governments, FEMA does not provide all of the funding for emergency management programs. In the example cited in your question, the relationship of the funding levels requested for hazardous materials (hazmat) and radiological defense, it is important to note where the primary Federal responsibility rests.

The cornerstone of FEMA's hazmat planning and preparedness efforts has been and continues to be the provision of direct technical assistance to multiple constituencies (fire, State Emergency Response Commissions--SERCs, Local Emergency Planning Committees--LEPCs, as well as emergency management agencies). As recently as October 1990, under the Hazardous Materials Transportation Uniform Safety Act of 1990, FEMA was given direct statutory authority for monitoring the public sector emergency response planning and training for hazardous materials incidents and accidents. As a result, a qualitative assessment of existing capabilities in hazardous materials planning and training will finally be conducted. The results of FEMA's monitoring will then impact the provision of technical assistance by FEMA and the other six named agencies.

Beginning in 1993, grants for planning and training will be made available to States and locals to enhance the development, improvement, and implementation of hazardous materials plans, as well as provide additional funds for the development and delivery of hazmat training. The grant monies and the technical assistance will be coordinated among six other Federal agencies. FEMA's efforts in hazmat preparedness will continue to focus on the delivery of programs to enhance the emergency preparedness capabilities of States and locals--only coordinated with six other Federal agencies to avoid duplication and ensure effectiveness.

SENATOR MIKULSKI: Were the local emergency managers re-queried for the updated report?

ANSWER: The data reported by the local governments is obtained on a 4-year cycle. The last survey of this type was conducted in fiscal year 1988; the next reporting cycle is expected to be in fiscal year 1992. Local officials were not re-queried for the updated report since requesting additional information from them in an off-year would require placing a heavy additional burden on already very busy State and local emergency managers. Also, we believe it produces relatively little change since the nature of most threats does not change dramatically year to year.

SENATOR MIKULSKI: It would be helpful if we knew more about how the rankings were developed. For example, it appears that the rankings in the report may have been based solely on how many localities listed a given event as a threat.

Were they asked to rank or weigh them in any way?

ANSWER: The rankings provided by the local governments represent only one means of providing this information. The majority of the information upon which the rankings were based was provided by the Federal departments and agencies that are responsible for collecting and maintaining weather and economic-related data. As noted in the report, the hazards were ranked by

State, the average annual number of deaths, the worst-case deaths, the Presidential disaster declarations, and average annual economic losses.

The local officials have not been asked to rank or weigh the threats themselves but were asked to provide the information upon which FEMA could rank the threats. This information identifies those hazards that are significant threats to the local jurisdictions and estimates frequency based on hazard events that occur once or more times a year, once every 5 years, once every 10 years, once every 50 years, once every 100 years, or less than once in 100 years. The data presented is a compilation of all of the local responses received and rankings prepared by FEMA based on the number of respondents in each hazard category.

DRUG TESTING

SENATOR MIKULSKI: What criteria does FEMA use to determine which employees are given drug tests?

ANSWER: Employees who occupy certain sensitive positions--that is, positions with job functions that directly and immediately relate to public health and safety, the protection of life and property, law enforcement, or national security--will be tested for illegal drug use.

SENATOR MIKULSKI: How often are employees tested?

ANSWER: While drug testing has not started at FEMA since we are awaiting approval of our plan by the Department of Health and Human Services, it is anticipated that the annual frequency rate for random testing will be not less than 10% or more than 25% of the employees in Testing Designated Positions (TDP's). The approximate number of employees who occupy TDP's is 1,060, representing 43% of the FEMA workforce.

SENATOR MIKULSKI: What actions are taken when employees test results are positive?

ANSWER: A Medical Review Officer (MRO) will afford employees an opportunity to discuss a positive test result, verify positive test results, and refer written determinations to the FEMA Employee Assistance Program (EAP) Administrator. The EAP Administrator will notify the employee's immediate supervisor, and the employee will be referred to the AP for counseling and rehabilitation. The employee will be immediately removed from a sensitive position. Supervisors will propose disciplinary action against employees found to use illegal drugs. Such disciplinary actions include the full range of discipline, including removal. The severity of the action chosen will depend on the circumstances of each case.

SENATOR MIKULSKI: In testing, what actions are taken to ensure the privacy/dignity of employees?

ANSWER: Employees will be permitted to provide urine specimens in private, and in a rest room stall or similar enclosure so that the employee is not observed while providing the sample.

HOTEL FIRE SPRINKLER INVENTORY

SENATOR MIKULSKI: Why did we not see in your budget proposal references to implementing the Hotel and Motel Fire Safety Act of 1990?

ANSWER: The Hotel and Motel Fire Safety Act of 1990 did not provide funds to accomplish the objectives of the Act. In the initial stages of work on implementing Public Law 101-391, the U.S. Fire Administration (USFA) has been using funding provided by Congress for general residential sprinkler purposes. Therefore, we are depending on the requested funds to support the Hotel and Motel Fire Safety Act.

SENATOR MIKULSKI: What will it cost to first develop and then to update this information?

ANSWER: During the discussion and development of H.R. 94 and the subsequent Act, Public Law 101-391, the USFA estimated that it would need 4 workyears, $200,000 salaries and expenses, and $500,000 in program funds in the initial implementation year and 2 workyears, $100,000 salaries and expenses, and $250,000 program funds in the second implementation year.

These multi-year resources will be needed to carry out a variety of developmental, implementation, and program management work.

- During the initial stages of the program, criteria will need to be developed for qualifying hotels/motels as fire safe for purposes of the legislation.
- A variety of materials describing the Public Law, its requirements, and relationship to State and Local code requirements will be developed and disseminated through appropriate channels.
- Coordination with State and local fire marshals will be needed to establish an implementation plan for each of the States.
- A uniform collection and certification program including forms and software will be developed to guarantee quality control and verification of the date.
- A technical assistance and information program for hotel/motel owners will be devised since the owners will need to be directly involved in the implementation of the Public Law.
- Regulations for Federal personnel will need to

be promulgated and Agency travel coordinators will need information and assistance on the procedures to be followed.

- Monitoring, as well as improving, the reporting and dissemination of hotel/motel information after initial implementation will be necessary.

SENATOR MIKULSKI: How are the states' costs to be funded?

ANSWER: Currently, the USFA does not have funds for support of State activities in implementation of Public law 101-391. The USFA is having discussions with the States on implementation to ascertain the best ways, as well as costs, to get the job done. The responsibilities and level of resources available to State Fire Marshals/Directors vary significantly.

EMERGENCY OPERATING CENTERS

SENATOR MIKULSKI: What have been the states' reaction to the requirement that EOC funds will not be provided to an EOC within certain proximity of a likely nuclear attack target?

ANSWER: For the most part, State emergency management staffs understand and accept the rationale for locating EOC's at sites which are determined by their relation to risk potential, including the threat of nuclear attack. An EOC which is developed in a hazardous location might not be available to respond to a disaster when needed. It would, therefore, not be prudent to develop an EOC in a known flood plain, next to a nuclear plant or major transportation link, within a target area, etc. If a local government opts to do so, they may do so. However, in order to receive Federal Civil Defense EOC funds, the State would have to build its EOC to withstand that threat and would have to pay that extra cost. The States generally concur, since the State emergency managers do need reliability from the EOC's within their States and like the Federal Civil Defense program, have no desire to incur unnecessary costs.

SENATOR MIKULSKI: How many state EOC's are in such areas?

ANSWER: Most State EOC's are located near the seat of government, the State capitol. This location generally will be inside the area at risk from a nuclear attack. Forty State EOC's are located in the areas predicted to suffer destruction under an attack scenario. The Survivable Crisis Management initiative is designed to encourage States to assess their requirements Statewide and to build a survivable network that can ensure survivable Statewide emergency operations through the use of alternate EOC's and transportable communications equipment.

SENATOR MIKULSKI: How many have chosen to relocate?

ANSWER: FEMA does not require the relocation of an EOC if the State is able to maintain emergency management capabilities. The Survivable Crisis Management (SCM) initiative, which FEMA introduced in FY 1988, has created an awareness by State emergency managers that they have a need for creating a survivable capability with their facilities. Relocating their response capability is prudent management. Their primary EOC location near the seat of government is acceptable if the State has the capability to relocate their response functions to another site if the primary EOC would become unavailable. The SCM approach encourages this planning. Through FY 1990, 15 States were developing that redundant capability. The indication thus far this fiscal year is that this figure will nearly double. However, we expect all 56 eligible jurisdictions to develop SCM capabilities eventually.

SENATOR MIKULSKI: When and why was this policy implemented?

ANSWER: The policy to base Civil Defense funding decisions on risk considerations is longstanding within FEMA and its predecessor agencies. FEMA implemented the SCM initiative in FY 1988 which established the current application of that policy within the EOC program. The policy has been implemented to assure that the necessary capabilities are available to manage emergencies when they occur. Response and recovery are not possible when the systems to effect them are no longer in place.

SENATOR MIKULSKI: What damage or inadequacies were identified in the state Emergency Operating Centers involved with Hurricane Hugo? What was the cost estimate to rectify these problems? Do you have similar information for other states?

ANSWER: On the mainland, no State EOC's were damaged by the ravages of Hurricane Hugo. On the islands (Puerto Rico and the Virgin Islands) and in the coastal areas of the mainland, EOC's were affected. Major equipment failures and inadequacies consisted of: (1) generator failures, (2) destruction of radio antenna towers, and (3) lack of communications equipment. As a result, FEMA has (1) included requirements for stress testing of generators each year in exercises; (2) authorized the use of funds to strengthen radio antenna towers, but is still reviewing the most economical means to accomplish this effort; and (3) authorized the use of funds for the purchase of VHF, cellular, and satellite-based communications, in addition to the standard types of communications already provided. Finally, State and local governments must pay more attention to adequate maintenance of equipment.

We do not have information available on the total cost to rectify these problems, but do have some examples of the costs involved for specific EOC's. The EOC program is a 50-50 matching program. FEMA cannot provide funds to correct deficiencies unless asked to do so by the States. To date, no funds for EOC upgrades have been requested by Puerto Rico, North Carolina, or South Carolina. In the Virgin Islands, a new EOC has been opened on St. Thomas with $30,000 being provided for furnishings and another $250,000 being spent to provide a FEMA National Radio System (FNARS) station. In addition, $400,000 was provided to the Virgin Islands for an EOC on St. Croix. FEMA also provided funds in FY 1984 for a microwave system for the Virgin Islands.

We estimate a requirement from Puerto Rico for $500,000 for a new EOC, but as yet have not received a proposal. Funds have also been provided for the Emergency Broadcast System in the Virgin Islands and Puerto Rico.

SENATOR MIKULSKI: Does this correspond to the level of funding you have requested for EOC's?

ANSWER: No. The Survival Crisis Management (SCM) initiative will provide the information on total funding required for EOC's. We recognize that once this figure is known that there will have to be a phased approach to develop an SCM capability in all 50 states and the territories. This is due to the requirement for matching funds and the need to manage the state projects.

SENATOR MIKULSKI: Do you have any information on the demand for EOC funds each year; e.g., a total of the dollar amount requested?

ANSWER: Yes. Our Regional program managers are in frequent contact with the States and they in turn are in contact with the local emergency management officials. This provides us with a good idea of what the demands are. However, this is a very dynamic program, and interests wax and wane in this area in local and State government, especially when exposed to the pressures of budgets and impacts of disasters both within a given State and on their neighbors. Information regarding needs changes very often and very rapidly. For fiscal year 1991, we have 12 State proposals which are at headquarters, seven at the regions, and nine under development by the States. The total funding involved for the proposals FEMA has received is over $10.0 million, but approximately $6.2 million is available for a shortfall of at least $3.8 million.

SENATOR MIKULSKI: Are local EOC's generally considered adequate? Why are federal funds not provided for them?

ANSWER: There are some deficiencies in local EOC's which do not necessarily preclude operations in the time of emergency, i.e., the deficiency may not be relevant to the specific disaster affecting the area at the time. Although we are placing our priority on creating a State level capability, local EOC's are often included in the State SCM network and do receive funding as a result of being part of the State programs to provide SCM capabilities. Local EOC's are also eligible and receive funds through the Maintenance and Services and State and Local Warning and Communications Systems Programs.

CRIME INSURANCE

SENATOR MIKULSKI: How far will the annual premium increases you cite go toward achieving financial self-sufficiency of this program?

ANSWER: The Omnibus Budget Reconciliation Act of 1990 extended the crime insurance program until September 30, 1995, and authorized premium increases of "no more than 15 percent". In FY 1991, a 15 percent rate increase will be implemented on commercial business. In accord with the legislation, FEMA intends to increase premium rates on all business 15 percent each year beginning in FY 1992, and will work toward making the program self-supporting. Consideration is being given to implementing an expense constant to cover operating costs associated with selling and servicing policies.

The following chart shows the estimated savings resulting from a 15 percent increase in crime insurance rates.

Fiscal Year	Estimated Savings
1992	$859,000
1993	$1,718,000
1994	$2,581,000
1995	$3,447,000
Total	$8,605,000

If an approximate 42 percent rate increase was implemented each year for fiscal years 1992 through 1995, the Crime program could achieve a self-supporting status by the end of FY 1995. The amount of the rate increase needed to become self-supporting assumes the decline in the number of policies continues at the current rate of 10 percent per year and no adverse selection which increases program losses.

SENATOR MIKULSKI: What presently are "average" or "typical" premiums under this program?

ANSWER: Currently, the average premium for residential crime insurance is $107 per year and the average premium for commercial insurance is $936 per year.

EMERGENCY FOOD AND SHELTER PROGRAM

SENATOR MIKULSKI: What is the age of your current poverty and unemployment data? When do you expect to obtain newer data?

ANSWER: The Emergency Food and Shelter (EFS) Program National Board always uses the latest unemployment data available. For our recent reallocation that was made in early February of 1991, we had Bureau of Labor Statistics (BLS) data through December of 1990. The poverty data is still based on the 1980 Census. We met recently with both Census Bureau and BLS officials to determine the availability of new data. BLS can continue to provide us recent data (there is generally only a six week gap between collection and reporting). The Census Bureau estimated that the new poverty data would begin to become available in early 1992. That would be too late to utilize in our next allocation (for Fiscal Year 1992), but we will work with Census to explore other listings that may become available sooner.

SENATOR MIKULSKI: When is the Bureau of the Census homeless count likely to be available? Do you have any preliminary indications of whether this data will be useful in your fund allocations?

ANSWER: Shelter and street totals for States will begin to be released in April of 1991. The Census Bureau may have a release schedule available. The Census Bureau has always reminded us that it was counting components of homelessness and that it was up to agencies administering the programs to determine the worth and utility of the assembled numbers. Having stated that, we do acknowledge that the count is of some interest as a one night (March 20, 1990) "snapshot" of homelessness. We are anxious to look at the data to compare it with our distribution pattern for this program. Also we may be able to use the homeless count in combination with other components (such as domestic violence shelters, etc.) that were counted in the general census, which should begin to become available in early 1992.

SENATOR MIKULSKI: Has the National Board ever attempted to quantify the demand for EFS funds? For example, computing the total amount of applications submitted to the local boards?

ANSWER: No. We are aware that some local boards have compiled such information, but we have never asked for it to be reported in to us. Oftentimes the National Board has resisted requiring any but the most essential program and financial reporting. The Board has usually weighed its desire for program knowledge against the burden on local agencies imposed by various reporting requirements.

SENATOR MIKULSKI: For the latest available "Phase", please provide the subcommittee with as much detail as readily available on the use made of the funds by local recipients -- lodging, meals, rental assistance, etc. If information is readily available on how much went to food banks and food bags versus prepared meals, and how much to shelter vs. soup kitchens, that would also be useful.

ANSWER: The attached chart shows our estimated spending for Phase VIII (Fiscal Year 1990). Other Food (food banks and pantries) received about $38 million while prepared meals received about $16 million. Shelters received approximately $17 million while soup kitchens received the $16 million mentioned above under served meals. It is important to remember that these crucial funding decisions are made at the local level based on a local board's determination of the most needed emergency services in that particular area at the time of the allocation.

SENATOR MIKULSKI: Do you have any indication of the mix of funds going to the needy and near-homeless, relative to the truly homeless?

ANSWER: It is a difficult area to quantify. First we can note that more than 25% of our funds go directly to mass shelters and soup kitchens that would serve the truly homeless. However, another 6% of our funds are used for a category called Other Shelter, which is generally hotel and motel rooms rented for people without a place to stay when there are no other alternatives. Additionally, 29% of our funds go into a category called Other Food. That generally applies to food banks and food pantries. Many of the food banks are providing food to the shelters that serve the truly homeless. Also many food pantries provide two types of food bags; one for those with a kitchen and one containing foodstuffs with no preparation necessary for people on the street. Finally we should also stress that those near-homeless are generally only days away from being "truly homeless" when they receive assistance through this program to prevent eviction or keep their utilities on.

SENATOR MIKULSKI: Please provide the Subcommittee with the latest Program Overview and Responsibilities and Requirements.

ANSWER: Attached is the Program Overview and Responsibilities and Requirements for Phase IX of the Emergency Food and Shelter National Board Program.

URBAN SEARCH AND RESCUE

SENATOR MIKULSKI: The FY 1992 budget proposal makes it difficult to determine the activities regarding the National Urban Search and Rescue System. Please describe the activities and level of funding proposed for FY 1992, and changes from FY 1991?

ANSWER: For FY 1991, the FEMA budget for Urban Search and Rescue totaled $1,925,000 for grants, along with a minimum of contract support and printing. In addition, there was a supplemental, no year appropriation during FY 1990 from which $800,000 in carryover funds will be used for urban search and rescue. For FY 1992, there is no request for funding.

FEMA recognized that specialized urban search and rescue expertise resides mainly at the local level of government in the United States. The Department of Defense (DoD) has primary responsibility under the Federal Response Plan for Public Law 93-288 for mobilization, deployment and logistical support of US&R teams. However, DoD does not have the special expertise or equipment available for this mission.

Therefore, FEMA designed the US&R system to identify, inventory, determine criteria for, train personnel and enhance existing equipment inventories while simultaneously providing the States and Federal government with a readily deployable response mechanism. This response mechanism will consist of highly trained, multi-disciplined civilian task forces, capable of augmenting State and local government resources in the areas of search, rescue, and emergency medicine.

FEMA has established five (5) working groups, consisting of seventy-eight (78) US&R experts from local, State and Federal governments and private organizations from across the United States in order to develop and bring consensus on team criteria, equipment standards, and training requirements. FEMA is also developing a database for program support, criteria and standards development, training and equipment inventory, and eventually team identification for field deployment. FEMA's goal is to inventory, train and partially equip up to 25 of these teams or task forces on a nationwide basis.

USE OF NATIONAL INSTITUTE OF BUILDING SCIENCES (NIBS)

SENATOR MIKULSKI: As you may be aware, the Congress created the National Institute of Building Sciences as a non-profit entity in the mid-1970s to perform a number of functions, including development of standards for the maintenance of life, safety, health, and public welfare for adoption by building regulating jurisdiction and agencies. The authorizing legislation stipulated that federal agencies may contract with the Institute where deemed appropriate.

The Subcommittee is aware that you have had contracts with the Institute for their services; however, is the use of NIBS inhibited by a requirement that their type of services be obtained competitively, or by other factors?

ANSWER: The services of NIBS have been acquired by FEMA through both competitive and sole-source contracts. As a matter of fact, the majority of the contracts have been based on their Congressional charter allowing a single-source acquisition. There are therefore no inhibitions in FEMA's obtaining NIBS' services when they are required.

SENATOR MIKULSKI: The act creating NIBS also authorized federal agencies to seeks funds to make grants to NIBS for general operating support. Has FEMA ever done this? What would be its views on doing so?

ANSWER: FEMA has never made a grant to NIBS for general operating support. FEMA prefers the current practice of absorbing our fair share of general and administrative expenses through the appropriate segment of the cost of contracts, cooperative agreements, or grants.

SENATOR MIKULSKI: Are there specific projects for which FEMA would prefer to use NIBS' services, and would if funds were provided to FEMA for such purposes?

ANSWER: FEMA would prefer to be able to determine how to best procure needed services. This flexibility would enhance FEMA's ability to assure that the quality and price are acceptable to the Federal Government. NIBS has provided consensus review for two editions of provisions aimed at increasing the seismic safety of new buildings and is preparing a third one for FEMA. In so doing, NIBS has developed a set of skills which FEMA would take into consideration when the need for similar services arises.

SENATOR MIKULSKI: Are there other organizations which can satisfactorily provide the services the Institute offers?

ANSWER: As stated in the answer above, NIBS provides a valuable service in consensus approval of seismic provisions for new buildings. In the case of similar provisions dealing with existing buildings, there are other combinations or groupings of organizations that may have the potential for providing consensus services comparable to those of NIBS.

FLOOD INSURANCE

SENATOR MIKULSKI: What is the cause of the substantial Increase in "other services" since 1990?

ANSWER: The increase in other services is attributable to three factors. First, historically the other services line item has consisted of agents' commissions and taxes, operating expenses, and the Write-Your-Own expense allowance. These costs are estimated to increase $45 million between 1990 and 1992 which is attributable to a projected increase in the policy base of almost 244,000 policies over the same period.

Secondly, $4 million dollars has been identified for Community Rating System (CRS) activities in 1992 that was not included in 1990 or 1991. The CRS provides for a reduction in insurance premiums in those communities that voluntarily undertake flood plain management and related activities which go beyond those required for participation in the National Flood Insurance Program. The CRS has been developed with the assistance and active involvement of the insurance industry and the Association of State Floodplain Managers, most particularly the criteria for creditable community activities and the development of needed applications, instructions, and evaluation mechanisms. We are very pleased with the enthusiastic response the CRS has received. The applications now in hand indicate the goals of CRS are being realized -- "To encourage, by the use of flood insurance premium adjustments, community and state activities beyond those required by the NFIP to: reduce flood losses, facilitate accurate insurance rating, and promote the awareness of flood insurance."

Finally, as required by the Omnibus Budget Reconciliation Act of 1990, flood insurance and mitigation activities and salaries and expenses for flood insurance and mitigation are directly funded from the National Flood Insurance Fund in 1991 and 1992. These costs are included in the other services line item.

NATIONAL EARTHQUAKE PROGRAM

SENATOR MIKULSKI: Why is the amount requested less than the amount authorized?

ANSWER: FEMA, in concert with the Administration's deficit reduction goals, has requested modest increases in the Earthquake Program budget for 1992. In view of the additional funds received by this program area in the past two fiscal years, the level is adequate to accomplish the Program objectives effectively.

EMERGENCY MANAGEMENT ASSISTANCE

SENATOR MIKULSKI: This program is set up to be a 50-50 federal-state match. Is in fact the level of federal funding for this program sufficient to cover 50 percent of the states' cost?

ANSWER: The Emergency Management Assistance (EMA) program provides matching funds up to a maximum of 50 percent of necessary and essential emergency management expenses of State and local governments. While we do not have sufficient data on the national total of eligible expenses to be able to say exactly what percentage is being met with Federal funds, we are aware that the Federal funding is less than would be required to provide a full 50 percent match nationwide. Our best estimate is that the Federal contribution is about 33 percent of the necessary and essential State and local expenses.

SENATOR MIKULSKI: Is it correct that the state and local responsibilities under this program were assigned them under the Civil Defense Act? And if so, what is the rationale for assigning them a mission but not providing the full federal share of funding?

ANSWER: To the extent that State and local governments are assigned responsibilities by the EMA program, those responsibilities are assigned under the Civil Defense Act, since it is the authority for the program. We think, however, that a distinction must be made between responsibilities that exist entirely because a jurisdiction participates in the EMA program and responsibilities that are inherent and would exist under any circumstances. It should be remembered that even if there was no national emergency management program, State and local governments would be responsible for preparing to aid their people in time of disasters and other major emergencies. They would have to plan, train, exercise, coordinate among themselves, respond to actual disaster events, etc. In theory, the national emergency management program should make it possible to reduce the burden that each State would have to assume if it addressed its responsibilities independently.

The level of funding requested in the President's budget meets Federal commitments and provides significant support for State and local emergency management organizations.

INSPECTOR GENERAL

SENATOR MIKULSKI: Has the Office of Inspector General worked out specifically what would be done in the short term with the 10 additional auditors proposed?

ANSWER: Yes. The Office of the Inspector General has projected forward from the Audit Plan for 1991, taking into account the addition of 10 personnel which will permit us to expand our audit and investigative coverage of FEMA's program activities.

SENATOR MIKULSKI: Your prepared statement suggests that with additional staff, you may be contemplating larger program effectiveness type reviews of programs. Is that correct?

ANSWER: Yes, that is correct. Additional staff will permit more thorough and comprehensive coverage of activities in the State and Local Programs and Support Directorate, National Preparedness Directorate, and the Federal Insurance Administration. It will also permit us to audit the large volume of grants and contracts which amount to considerable sums of money and which have not been adequately covered previously.

SENATOR MIKULSKI: We note from your report that you have done work on Hurricane Hugo, and we know that GAO has too. How do you see the role of an IG relative to that of GAO?

ANSWER: In general terms, we seek to avoid duplication of effort as specified in the statute creating Inspectors General. In the case of Hurricane Hugo, our office was aware of the audit work GAO conducted on Hugo, coordinated it in advance with GAO, and found no conflict in our respective audit objectives.

SENATOR MIKULSKI: Have staff shortages affected the timeliness of your reviews? We note, for example, a 1990 report on disaster relief to the State of West Virginia, which we assume relates to the 1985 flood.

ANSWER: Staff shortages have affected the timeliness of some of our reviews. However, it must also be kept in mind that we normally commence audits after disaster relief funds have been awarded, the public assistance type reconstruction work has been completed and the appropriate documents have been submitted in support of the claims for final payments. This can often amount to a number of months and sometimes even several years after the actual disaster event has occurred.

SENATOR MIKULSKI: Your budget request by object class shows a substantial increase in "other services." What does this represent?

ANSWER: The "other services" funds requested in our budget are to cover contract audit services required as a result of the Chief Financial Officer's legislation; for audits performed for FEMA by the Defense Contract Audit Agency; and for technical assistance in the performance of audits and investigations.

QUESTIONS SUBMITTED BY SENATOR GARN

DISASTER RELIEF

Question: An account which annually seems to be the object of "budgetary football" on Capitol Hill is your Disaster Relief appropriation. I well appreciate the wisdom of maintaining a prudent balance in the Fund to cover the cost of new disaster needs. But as you know, the budgetary constraints confronting us make it very difficult to allocate funds to needs that might arise in the future, when this money will come at the expense of other clearly identified and present needs.

Our failure in previous years to provide adequate funding to meet disaster contingencies has resulted in periodic supplemental appropriations. I am wondering, since we did not provide any funds in the regular appropriations bill for this year, whether we are likely to see the need for a supplemental. I understand that you currently have on hand only about $70 million in unallocated disaster relief funds. In a "normal" year of activity, is this amount adequate?

Answer: No. Based on historical averages, the Disaster Relief Fund can expect to allocate and obligate $270 million each fiscal year. With over six months of the fiscal year still ahead of us, the funds currently on hand will fall far short of meeting the needs of a fully implemented Disaster Relief Program.

Question: Based on past years, I recall that beyond the amount not yet allocated, your agency periodically recovers previously obligated or committed amounts which ultimately are not needed to cover eligible needs in past disasters. I understand that a total of $226 million is currently unobligated at this point, although most of it has been allocated to disaster events. Do you anticipate that you will see significant additional recoveries from these amounts during the balance of this fiscal year?

Answer: FEMA projects recoveries of prior obligations of $50 million each year. This number is based on historical averages. In Fiscal Year 1990 recoveries totalled $28,311,000. As of this date, FEMA has recovered $10,311,000. With six months of the current fiscal year now past, we have no anticipation of significant recoveries.

DISASTER UNEMPLOYMENT ASSISTANCE

Question: I understand that a significant concern has been raised in the interpretation of the disaster unemployment assistance program which provides for unemployment benefits and reemployment assistance to individuals who lost jobs due to a disaster.

While individuals are entitled to such assistance for a 26-week period following the disaster declaration, I understand that where the disaster began some time before the declaration, the current interpretation of law is that this additional period is tacked on to the 26 weeks of payment eligibility. I'm told that in the case of the volcano eruption in Hawaii there are some individuals who may be eligible for nearly seven years of benefit payments, and that a similar situation may arise if a disaster is declared for the long-running California drought.

What is being done to correct this bizarre application of disaster unemployment benefit eligibility? What is the current cost of such extended benefit eligibility? Are other corrections and clarifications being proposed to prevent potential abuse of this program?

Answer: An amendment to section 410 of the Stafford Act would be required to make clear that the disaster unemployment assistance (DUA) benefit of 26 weeks is the maximum benefit within a prolonged incident period, such as the continuing eruptions of the Hawaiian volcano, regardless of when an individual becomes unemployed. The amendment would also eliminate an inequity in the current law that pays an additional week of benefits to those who initially qualify for DUA in States that have a "waiting week" for those receiving Unemployment Insurance.

This program is administered for FEMA by the Department of Labor. We understand that in the Hawaiian volcano disaster, 15 individuals filed claims for DUA benefits. Four claims were approved for payments totalling $23,814. We understand that two individuals each received eight weeks of benefits, while two others received a total of 115 benefit weeks. The total program cost of the extended benefit eligibility for these two individuals is $11,438 **more than** the $9464 they would have received had the benefit period been limited to 26 weeks. To further the point, we understand that one individual's initial claim was for 318 weeks of unemployment (totalling $54,060 in benefits), while another's was for 135 weeks of unemployment (totalling $22,950 in benefits.) Had the State concurred on those claim amounts and approved claims for the other 11 who filed, total program costs for individuals within the extended benefit period would have been exceedingly high.

While we are concerned about the provision of DUA benefits to farmers in agricultural disasters (such as freezes or droughts), no additional changes to the DUA program are being proposed at this time. It is difficult to measure the extent to which farmers become unemployed, and to determine appropriate benefit levels in these situations. It is FEMA's position that the programs of the U.S. Department of Agriculture (such as emergency loans, advance deficiency payments, crop insurance, and disaster payments resulting from special drought legislation in 1988 and 1989) are more appropriate forms of assistance in agricultural disasters than DUA or any other program assistance provided under the Stafford Act.

DISASTER ASSISTANCE FOR SCHOOLS

Question: Page 15 of your statement indicates that FEMA is assuming responsibility from the Department of Education for administering disaster assistance to elementary and secondary schools in 1992. What is the cost and nature of this program. Why is this shift being implemented?

Answer: At the present time both the Department of Education (under P.L. 81-815 and P.L. 81-874) and FEMA (under the Stafford Act) are authorized to provide assistance to local schools following a disaster declaration. The authorities for both agencies are very similar, with FEMA's authority somewhat broader. The cost share formulas of both agencies are 75 percent Federal - 25 percent non-Federal. By combining the overlapping programs, the delivery of Federal assistance to local schools will be streamlined and relieve local schools from having to apply to two agencies for funding.

The Department of Education estimates the average annual cost of repairs to eligible school facilities damaged by Presidentially declared disasters to be approximately $11 million.

CRIME INSURANCE

Question: It never ceases to amaze me how difficult it is to terminate some Federal programs. The Crime Insurance program must be one of the all-time survival champions. I personally recall passing legislation killing the program three times. And yet, it now enjoys

a new five-year lease on life, through September 1995.

At least you can act to reduce the annual cost of continuing this very limited program by increasing premium rates by 15% a year. If the Congress does not prevent this prudent action on your part, how much can we save the taxpayers annually through these increased premiums?

Answer: The Omnibus Budget Reconciliation Act of 1990 extended the crime insurance program until September 30, 1995, and authorized premium increases of "no more than 15 percent". In FY 1991, a 15 percent rate increase will be implemented on commercial business. In accord with the legislation, FEMA intends to increase premium rates on all business 15 percent each year beginning in FY 1992, and will work toward making the program self-supporting. Consideration is being given to implementing an expense constant to cover operating costs associated with selling and servicing policies.

The chart below shows the estimated savings resulting from a 15 percent increase in crime insurance rates.

Fiscal Year	Estimated Savings from Rate Increases
1992	$859,000
1993	$1,718,000
1994	$2,581,000
1995	$3,447,000
Total	$8,605,000

QUESTIONS SUBMITTED BY SENATOR D'AMATO

ASSISTANCE TO DISASTER VICTIMS

Question: As I mentioned in my opening statement, I am greatly concerned about the worst ice storm in decades that hit 18 counties in Western and Northern New York on Sunday. The storm has left 750,000 people without power for lights, heating systems, water pumps and other needs. Full power is not expected to be restored until sometime this weekend.

What is the status of FEMA's involvement in this disaster?

What type of assistance can FEMA offer victims should the state ask for Federal assistance?

Considering the magnitude of this disaster, I would like to be kept informed as to any and all developments related to Federal involvement.

Answer: New York received a major disaster declaration on March 21, 1991, as a result of the severe winter storm. The declaration is for public assistance only. The President also authorized the disaster loan program of the Small Business Administration and the emergency loan program of the Farmers Home Administration.

Assistance available to State and local governments and eligible private nonprivate organizations by FEMA's Public Assistance Program may include, but is not limited to :

Clearance of debris, when in the public interest, on public or private lands or waters.

Emergency protective measures for the preservation of life and property.

Repair or replacement of roads, streets, and bridges.

Repair or replacement of water control facilities.

Repair or replacement of public utilities, buildings and related equipment.

Repair to Federal-aid system roads when authorized by the Department of Transportation.

SUBCOMMITTEE RECESS

Senator **Mikulski**. Having said that, this concludes today's hearings. The subcommittee will stand in recess until March 13 at 1:30 p.m., when we will take testimony from EPA and the Environmental Quality Council.

[Whereupon, at 3:53 p.m., Wednesday, March 6, the subcommittee was recessed, to reconvene at 1:30 p.m., Wednesday, March 13.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

WEDNESDAY, MARCH 13, 1991

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:35 p.m., in room S–419, the Capitol, Hon. Barbara A. Mikulski (chair) presiding.

Present: Senators Mikulski, Leahy, Lautenberg, Fowler, Kerrey, Garn, D'Amato, and Bond.

COUNCIL ON ENVIRONMENTAL QUALITY

STATEMENT OF MICHAEL R. DELAND, CHAIRMAN

ACCOMPANIED BY:

LARRY FLICK, DIRECTOR, LEGISLATIVE AFFAIRS
DAVID STRUHS, CHIEF OF STAFF

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order.

Today, the subcommittee meets to consider the fiscal year 1992 budget request for the Council on Environmental Quality and the Environmental Protection Agency, two vital agencies at a time when environmental issues, from global warming to clean air to pollution prevention, are getting the recognition they deserve.

I would like to welcome Mike Deland, the Chairman of the Council on Environmental Quality. I know that the CEQ is requesting a fiscal year 1992 budget of $2.56 million and 40 staff.

I am going to just ask unanimous consent to put my statement into the record so that we can move quickly to questions.

[The statement follows:]

STATEMENT OF SENATOR MIKULSKI

The subcommittee will come to order.

Today the subcommittee meets to consider the fiscal year 1992 budget request for the Council on Environmental Quality and the Environmental Protection Agency, two vital agencies at a time when environmental issues—from global warming to clean air to pollution prevention—are getting the recognition they so deserve.

First, I would like to welcome Mike Deland, Chairman of the Council on Environmental Quality. CEQ is requesting a fiscal year 1992 budget of $2.56 million and 40 staff. This is an increase of 37 percent over the current budget, most of which would go to supporting additional staff.

I note that since 1989, CEQ's staff has already more than doubled, so we'll want to ask some questions on why additional staff are needed.

CEQ released its strategic plan for the environment in January, which I want to discuss, as well as the Environmental Education Awards Program, and the administration's energy strategy.

Mr. Deland, go right ahead with your statement and then we will turn to questions.

Senator MIKULSKI. Senator Garn, do you have an opening statement?

Senator GARN. Madam Chair, I appreciate you calling on me, but believe it is much more important to get to the witnesses.

Senator MIKULSKI. Thank you.

Mr. Deland, we welcome you to the subcommittee. Other subcommittee members will be joining us, but the Desert Storm authorization is on the floor. They are participating in the debate.

So, go ahead with your testimony and we will move right ahead.

SUMMARY OF STATEMENT

Mr. DELAND. Thank you, Madam Chair and Senator Garn. It is a pleasure to be here today to discuss our budget request.

As you know, I have submitted testimony for the record, and I will just briefly summarize that. So, we will have an ample opportunity for questions.

When Congress created CEQ over 20 years ago, it intended that the office serve as a strong environmental proponent, an entity within the White House whose purpose was to further the goals of the National Environmental Policy Act. In the words of Senator Scoop Jackson, CEQ was "to serve as the Nation's environmental conscious," a role that it played admirably for many years but one that, as you know, was allowed to languish during the course of the last administration.

Clearly, this Congress, with the leadership of this subcommittee, shares the credit with the President for reinvigorating CEQ over the course of the last 2 years. Now, with the support of your subcommittee and the Congress, CEQ has the opportunity to shape a new generation of Federal environmental policy, to shift the Nation's mindset away from simply moving pollution around, to harnessing human ingenuity and competition to prevent pollution before it occurs.

FISCAL YEARS 1990 AND 1991

Madam Chair, when I appeared before your subcommittee last year, I had been in place as CEQ Chairman for only 9 months. I knew at that time much work was needed before CEQ could attain the level that the President and both you and I envisioned. While, to be honest, I was disappointed at the last year's appropriation level, I also heard this subcommittee's message loud and clear: CEQ needed to demonstrate much more effectively that it was ready to again be a leader within the administration on environmental issues. In my judgment, we have done just that. I am pleased to report that, in the year since our last hearing, many strides have been made. I would like to give you briefly an outline of what we have accomplished during the course of that period.

CEQ's strength has always been its staff. Given the depleted state of that staff when I arrived, most of the increased fiscal year 1990 appropriation went to direct personnel costs. Specifically, in fiscal year 1990, we hired experts in natural resources, pollution prevention, environmental law, environmental economics, and international relations.

Our appropriation level for fiscal year 1991 is $1.873 million with an FTE ceiling of 34.

Since the beginning of the current fiscal year, we have hired an Associate Director for International Law and Policy, an individual with expertise in environmental statistics and a Director for Legislative Affairs. I might add that he, Larry Flick, is on my right and our chief of staff, David Struhs, is on my left.

Senator MIKULSKI. I know Mr. Flick from the days when I chaired the Oceanography Subcommittee. Mr. Flick was the staff assistant to Congressman Shumway.

Mr. FLICK. Yes, ma'am.

Senator MIKULSKI. We had a lot of good times. [Laughter.]

Mr. FLICK. It is good to be working with you again.

Mr. DELAND. There are two other CEQ employees here, our Deputy General Counsel, Lucy Swartz, and our Administrative Officer, Donna Connell. I can assure you, Madam Chair, that the rest of the audience is filled not with CEQ employees, but those from EPA. [Laughter.]

As we have increased our staff, we have increased our role as a policy leader for the President on a variety of environmental issues. Despite the progress in fiscal year 1990 and over the course of the last fiscal year, I am the first to admit that we are not yet where we want to be, where we ought to be.

FISCAL YEAR 1992 REQUEST

The fiscal year 1992 budget request is for $2.56 million and a personnel ceiling of 40 FTE's. A 40-person staff is consistent with my vision of a fully operating, fully effective CEQ. I strongly believe that a staff of that size represents the level where maximum benefit will be derived from minimum investment, the point where the taxpayer and the environment receive the most bang for the buck.

The fiscal year 1992 request is $687,000 higher than our fiscal year 1991 appropriation, a 27-percent increase. As in previous years, most of the increase in funds, 83 percent in fact, would be used to hire additional personnel. An organizational chart which indicates our current staff and our plans for the future is attached to our testimony.

I believe this well-defined plan for CEQ's staff expansion to 40 persons will ensure that our office has the depth and balance needed to perform our responsibilities effectively, including the ability to lead more interagency efforts to promote environmental quality on a coordinated, administrationwide basis.

I appreciate the fiscal tensions which the Chair and the subcommittee members are under and the diligence with which you track every dollar. But I submit that a $687,000 increase, a figure which is lost in the rounding of most Federal agencies, over our fiscal year 1991 appropriation would result in a substantial return to the taxpayers' investment.

Before I briefly discuss CEQ's ongoing activities and plans for the fiscal year, I would like to first address my perspective on CEQ's role within this administration.

My position at the Council is to be an advisor to the President on a wide range of environmental issues. The President has given me the access needed to make this role meaningful. For example, unlike my predecessors, I attend all Cabinet meetings, the meetings of the Domestic Policy Council, the Economic Policy Council, and have direct access to the President when I feel it is warranted.

CEQ is first and foremost a policy advisory office for the President, to advise him without the biases or programmatic limitations which mission-oriented agencies often have. As such, I advise the President on the entire range of environmental issues, with particular responsibility to anticipate emerging issues.

Environmental policy, as you know, increasingly is intertwined with energy, economic, scientific, diplomatic, and as we have seen in the Persian Gulf, national security policies. Thus, we at CEQ must be comprehensive thinkers or strategic planners who endeavor to move Federal policy and, hopefully, bureaucracies forward.

Second, beyond our advisory role, we act as a coordinator for environmental affairs for the entire executive branch, to ensure that one Federal agency does not duplicate or contradict the endeavors of another. In this sense, we are brokers of good government, streamlining the work of various agencies so that Federal resources are not wasted.

A good example of this coordinating role is the new coastal America initiative, which the administration has proposed in this year's budget. CEQ has taken the lead in bringing together NOAA, EPA, Army Corps of Engineers, and the Department of the Interior, all of which deal with coastal water-related issues. There is an obvious need for these agencies not only to be aware of what the others are doing but, more importantly, to work closely together in the field to achieve maximum results.

PRIORITIES FOR FISCAL YEAR 1992

As to our priorities for the coming fiscal year, they involve both our role as strategic planner and interagency coordinator. I will touch on just several of them.

First, the President's Commission on Environmental Quality. It is a new entity to be chaired by myself as CEQ Chairman and comprised of 24 outstanding national leaders, appointed by the President, from the fields of industry, academia, and environmental advocacy. This group will assess opportunities for the private sector, environmental groups, and other constituencies to better work together on environmental concerns.

Second, CEQ has the lead responsibility for preparing the U.S. national report for the United Nations Conference on Environment and Development to be held in Brazil in 1992. We are also organizing outreach to the nongovernmental community as an important aspect of that conference.

Also, as part of our preparations for the conference, CEQ will be convening a series of roundtables to discuss the environmental issues facing the United States today. I am pleased, Madam Chair, to inform you that we will be holding a roundtable in your home city of Baltimore. I would like to take this opportunity to invite you to attend that May roundtable and serve as the honorary chair and, if your schedule permits, to participate in the conference.

Pollution prevention is another important example of CEQ's strategic planning efforts, in leading an interagency task force to explore the ways of the Federal Government to reduce or eliminate pollution before it occurs. I would be delighted to amplify on that if you like.

Global change is another important priority for CEQ. CEQ participates actively in the administration's global change climate activities. I serve as the Vice Chair on the Domestic Policy Council's working group. CEQ is instrumental in refining and advancing the President's policy for the recent U.N. negotiation session in Chantilly, VA. I also had the honor at that occasion to deliver the welcoming remarks on behalf of the President and to articulate the U.S. policy on his behalf.

Under the terms of the 1990 Clean Air Act, the President has designated CEQ to chair the Interagency Acid Precipitation Task Force. This national program is poised to achieve an important first in environmental management, using a new market-based scheme of emission controls to track the costs, benefits, and environmental effectiveness of our Nation's acid rain controls.

Finally, CEQ will be releasing its 21st environmental quality report by mid-April. I am delighted to say that not only will this report be timely, as it was last year, but it will also be the first such document in many years that was fully prepared in-house by CEQ staff and, certainly, the first one in many years if not the first ever to have been peer-reviewed by outside experts in academia and other segments.

I am excited about this year's report, because it does not merely recite the present state of the environment as many past reports did, but it also looks to the future and discusses in depth emerging trends and strategic topics, such as economics, the environment, pollution prevention, and conservation of biodiversity.

Madam Chair, these are but a few of the priorities for this coming fiscal year. A more complete listing of all our activities is included in our fiscal year 1992 budget request.

At this point, I would be delighted to respond to any queries you may have.

Thank you.

[The statement follows:]

STATEMENT OF MICHAEL R. DELAND

Thank you Madame Chair and Senator Garn. I am pleased to appear before you today to discuss the fiscal year 1992 Budget Request submitted by the President for the Council on Environmental Quality [CEQ]. That request is for $2.56 million and 40 staff positions.

President Bush has placed environmental protection high on his administration's list of priorities. Accordingly, the President has renewed the call for an active and fully engaged Council on Environmental Quality to serve him as the environmental advisor within the Executive Office of the President.

When Congress created CEQ over 20 years ago, it intended that the agency serve as a strong environmental proponent, an entity within the White House whose purpose was to further the goals of the National Environmental Policy Act [NEPA].

Until the 1980's, CEQ was instrumental in shaping the nation's environmental agenda, and it was relied upon and supported not only by Presidents, but by Congress as well.

Certainly Congress, with the leadership of this subcommittee, shares the credit with the President for reinvigorating CEQ over the past two years. CEQ, with the support of Congress and your subcommittee, has the opportunity to shape a new generation of federal environmental policy away from simply moving pollution around to harnessing human ingenuity and competition to prevent pollution before it occurs.

Madame Chair, when I appeared before your subcommittee last year, I had been in place as CEQ Chairman for only nine months. I knew at that time that much work was needed before CEQ would attain the level that the President, and both you and I, envisioned. While to be honest I was disappointed with last year's appropriation level, I also received this subcommittee's message loud and clear: CEQ needed to demonstrate that it was ready to again be a leader within the administration on environmental issues.

I am pleased to report that, in the year since our last hearing, great strides have been made. I would like to give you a brief retrospective of what we have accomplished at CEQ since 1989.

CEQ'S PROGRESS SINCE 1989

The Reagan Administration's last budget request for CEQ, for fiscal year 1990, was $870,000, with 13 FTEs. After I arrived at CEQ, and thanks to the good offices of this subcommittee and others, Congress provided us a total fiscal year 1990 appropriation of $1.456 million.

CEQ's strength has always been its staff, and given the depleted state of that staff when I arrived, most of the increased fiscal year 1990 appropriation went to direct personnel costs. Indeed, this appropriation level allowed me to hire several highly qualified individuals with areas of expertise that had been absent from the Council for a decade.

Specifically, in fiscal year 1990 we hired experts in natural resources, pollution prevention, environmental law, environmental economics, and international relations. We also hired an individual to establish and direct a Presidential environmental quality advisory committee, a special assistant to work on particular projects for me, and an administrative officer.

Further, we obtained the temporary services of an editor for our 20th Environmental Quality report, and administrative support for the additional professional staff. In all, we hired nine professional staff members and three administrative/support staff in fiscal year 1990. Also, we were fortunate to obtain the services of a detailee from the Army Corps of Engineers with a background in environmental engineering. We have also had individuals in fellowship programs from the Federal Emergency Management Agency and the Department of Commerce who, for periods of several months, provided expertise on specific issues.

In addition, we created a year-round internship program for college and graduate students. In fiscal year 1990, several interns provided substantive and administrative assistance to our permanent staff. While we incur little or no obligation for salaries for our interns, fellows, and detailees, we do incur other expenses associated with those individuals such as office space, communications, and supplies and equipment.

Our appropriation level for fiscal year 1991 is $1.873 million, with an FTE ceiling of 34. Although this level was not the full amount requested by the President last year, it was an increase over the fiscal year 1990 appropriation level, and thus allowed us to continue to expand. Since the beginning of the current fiscal year, we have hired an associate director for international law and policy, an individual with expertise in environmental statistics, a director of legislative affairs, and one additional support person. We are presently interviewing candidates for a science advisor and an economist, and expect to fill those positions in the near future. Again in fiscal year 1991, we will utilize the services of qualified interns, fellows, and detailees as appropriate.

As we have increased our staff, we have increased our role as a policy leader for the President on a variety of environmental fronts. As we were last year, we are actively involved in deliberations on global climate change, wetlands, and pollution prevention. We also now have a leading role in preparations for the United Nations Conference on Environment and Development [UNCED] in June, 1992 in Brazil, are taking the lead in bringing together the federal agencies involved in the $23 million interagency Coastal America program, are chairing the interagency Task Force on

Acid Precipitation, and are reinstating our interagency Advisory Committee on Environmental Trends.

Of course, we continue to actively oversee federal agency implementation of the procedural provisions of NEPA, including the environmental impact statement process and the resolution of interagency environmental disputes.

This year's annual Environmental Quality report will again be issued in a timely manner. Moreover, it was drafted entirely by in-house experts, and will be a forward-looking document which deals with emerging environmental issues and trends.

FISCAL YEAR 1992 REQUEST

Despite our progress in fiscal year 1990 and fiscal year 1991, I am the first to admit that we are not yet where we want to be.

The fiscal year 1992 budget request is for $2.56 million and a personnel ceiling of 40 FTEs. A 40 person staff is consistent with my vision of a fully operating, fully effective CEQ. I strongly believe that a staff of this size represents the level where maximum benefit will be derived from minimum investment, the point where the taxpayer and the environment receive the most "bang for the buck." In my view, anything less than that, while certainly representing a marked improvement over previous years, would continue to limit us from reaching our full potential, both in terms of efficiency and effectiveness.

The fiscal year 1992 request is $687,000 higher than our fiscal year 1991 appropriation (a 27 percent increase). As in previous years, most of the increase in funds (83 percent of the increase) would be used to hire additional personnel, primarily those who could add to CEQ's existing expertise in natural resources, pollution prevention, international environmental policy, statistical analysis, and technical and scientific expertise. We would also expect to complete the staffing for the Presidential advisory committee.

An organizational chart which indicates our current staff, and our plans for the future, is attached to our testimony. As indicated on the chart, we currently have 23 staff members, including one contractor. I believe this well-defined plan for CEQ's staff expansion to 40 will ensure that our office has the depth and balance needed to perform our responsibilities effectively, including the ability to shape and lead more interagency efforts to promote environmental quality on a coordinated, administration-wide basis.

I appreciate the fiscal tensions which the Chair and the subcommittee members are under, but a $687,000 increase over the fiscal year 1991 appropriation for CEQ would be money well spent. In this sense, from your perspective as an appropriator, Madame Chair, I would make the case that less really is more: an increase of only $687,000 at virtually any other federal agency will not achieve the level of results it would at CEQ.

CEQ'S ROLE IN THE EXECUTIVE OFFICE OF THE PRESIDENT

Before I discuss CEQ's on-going activities and plans for fiscal year 1992, I want first to address my perspective on CEQ's role within this administration. Unlike my previous position as an EPA Regional Administrator where my job was to be a regulator and an enforcer of existing environmental laws, my position at CEQ is to be an advisor to the President on the whole range of environmental issues. And the President has given me the access needed to make this role meaningful. For example, unlike my predecessors, I attend all Cabinet meetings, Domestic Policy Council meetings, and Economic Policy Council meetings.

Madame Chair, as you know in this business you can't please everyone. There have been a few detractors who have tried to point to my lack of front-page headlines as reflective of CEQ's standing within the White House. While I do have an advocacy role, which I exercise regularly, I argue my case privately and internally, rather than publicly. I have a responsibility to make my views known to the President—and I do. However, once a decision is made, I also have a responsibility to close ranks and help implement the President's decision. I view myself as part of the President's team and you will never find me working to promote a personal agenda at the expense of the President's policies.

Let me also address another fundamental question which is sometimes asked about CEQ, and indeed was posed by Senator Garn last year: "Given that we have an Environmental Protection Agency, do we need a Council on Environmental Quality?"

In my view, CEQ and EPA—while both clearly dealing with protection of the environment—were established to serve different purposes. With no disrespect to my friends at EPA and my colleague Bill Reilly, EPA was not designed or intended to perform the tasks which Congress assigned to CEQ under NEPA. Simply put, the creation of EPA—which was in fact a policy recommendation of the first CEQ Chairman—did not lessen or negate the need for an environmental advocate post within the White House.

CEQ is first and foremost a policy advisory office for the President. It is an office which is designed to be free from bureaucratic red tape and to advise the President without the biases or programmatic limitations which mission-oriented agencies often have. And as such, I advise the President on the entire range of environmental issues—including those regulated by EPA or administered by the Departments of Energy, Commerce, Interior, Agriculture, Defense, State or any other federal agency with issues that impact on the environment.

As the environmental advisor to the President, I must keep my eye on the big picture—environmental policy increasingly is intertwined into energy, economic, scientific, diplomatic and, as we have seen emphasized in the Persian Gulf, national security policies. While EPA, for example, is busy working on how to implement and regulate the latest 300 page environmental law, we at CEQ are scanning the horizon to anticipate and explore where federal environmental policy needs to progress. In this sense, at CEQ we must be comprehensive thinkers who move federal policy—and hopefully bureaucracies—forward.

I would hasten to add that we at CEQ work closely and effectively with our colleagues at EPA. In fact, I have been an active proponent of legislation to elevate EPA to a cabinet level department, and have recently advanced the administration's support of this legislation to the leadership of the Congressional committees of jurisdiction.

And second, beyond our policy advisory role, we act as the coordinator for environmental affairs for the entire Executive Branch. CEQ is in the unique position of being able to coordinate various federal agencies' activities from our vantage point within the Executive Office of the President to ensure that one federal agency is not duplicating, or contradicting, the endeavors of another. In this sense, we are brokers of good government, streamlining the work of various agencies so that federal resources are not wasted.

A good example of this coordinating role is the new Coastal America initiative which the administration has proposed in its fiscal year 1992 budget. NOAA, EPA, the Army Corps of Engineers and the Department of Interior all deal with coastal water-related issues, including non-point pollution, contaminated sediments, and habitat loss. There is a real need for these agencies to be aware of what the others are doing and to work together in the field to achieve maximum results. This is precisely what the Coastal America initiative is designed to do, and CEQ in its coordinating role will take the lead in bringing together these mission agencies.

With respect to these dual roles—policy advisor and interagency coordinator—CEQ is by no means unique in its position within the Executive Office of the President. In fact, the President has a number of advisory or policy offices which are buffered from their counterpart mission-oriented departments or agencies. There are the Departments of Defense and State, yet the President also has the National Security Council. There are the Departments of Commerce and Treasury, yet the President has his Council on Economic Advisors. There are science agencies such as NOAA, NASA, and the National Science Foundation [NSF] yet the President has the Office of Science and Technology Policy. The same is true with the Office of the United States Trade Representative and other important offices in the Executive Office of the President.

I realize that some may argue that these are other examples duplicative federal agencies. However, the objective of these agencies—and the objective of CEQ—is not to duplicate what other agencies are doing, but precisely the opposite. These lean-but-tough offices, including CEQ, are designed to cut through the bureaucratic morass of the massive federal departments in developing policy, eliminating duplication, and focusing interagency attention on problems and opportunities.

CEQ'S PRIORITIES FOR FY 1992

In fiscal year 1992, CEQ's priorities are areas in which the agency must be a comprehensive thinker in terms of policy development and in which we can coordinate interagency activities and streamline federal efforts. In addition to CEQ's involvement with the Coastal America initiative which was discussed above, CEQ has established several other important priorities for the coming months and years:

The President's Commission on Environmental Quality.—The President's Commission on Environmental Quality [PCEQ] was established by Executive Order No. 12737 in December, 1990. Chaired by the CEQ Chairman, the Commission will be comprised of 24 outstanding national leaders, appointed by the President from the fields of industry, academia, and environmental advocacy. This group will assess opportunities to mesh environmental, economic, and quality-of-life goals by harnessing the power of market forces in the areas of pollution prevention, natural resources management, international cooperation, and education and communication.

United Nations Conference on Environment and Development.—CEQ is actively contributing in three principal areas to the U.S. Government's preparations for the United Nations Conference on Environment and Development (UNCED) to be convened in Brazil in June 1992. First, CEQ has the lead responsibility for preparing the U.S. National Report for the conference. Second, CEQ also is responsible for organizing outreach to the nongovernmental community, an important part of which is facilitating an exchange of views between those organizations and the government on the issues and policies to be discussed at the conference. Third, CEQ is working closely with the Department of State in coordinating and integrating the government's development of U.S. policy positions for the conference.

As part of our preparations for UNCED, CEQ will be convening, in cooperation with a number of federal agencies and nongovernmental organizations, a series of roundtables to discuss the environmental issues facing the United States today. I am pleased, Madame Chair, to inform you that we will be holding a roundtable in your home city of Baltimore this May, to explore issues relating to environmental emergencies, waste and toxic chemicals, living conditions of the poor, and human health and the environment. I would like to take this opportunity to invite you to attend the May roundtable and serve as Honorary Chair to open the proceedings and participate should your schedule permit.

POLLUTION PREVENTION

CEQ is leading an interagency pollution prevention task force which is exploring ways for the federal government to reduce pollution before it occurs. This effort is intended to see that pollution prevention techniques are employed wherever feasible throughout the entire federal government using environmental economics and engineering. Rather than having each agency act on its own and without knowledge of the successes or failures of other agencies, CEQ is acting as an instigator and a clearinghouse of ideas for reducing pollution.

GLOBAL CLIMATE CHANGE

CEQ participates actively in the administration's global climate change activities. I serve as Vice Chair on the Domestic Policy Council's Working Group on Global Change. CEQ was instrumental in refining and advancing the President's policy for the recent U.N. negotiating session in Chantilly. I also had the honor of delivering the welcoming remarks to the conference delegates and articulating the U.S. policy on the President's behalf. CEQ was represented on the U.S. delegation at that negotiating session and will continue to play a significant role in the U.S. effort to negotiate an international framework on global climate issues.

ACID RAIN

Under the terms of the recently reauthorized Clean Air Act, the President has designated CEQ to chair the interagency Acid Precipitation Task Force. This interagency effort involves the work of the Department of Energy, EPA, NOAA, the Tennessee valley Authority, the Department of Interior, the Department of Health and Human Services, the Department of Agriculture, NSF, and NASA. Under the chairmanship of CEQ, this national program is poised to achieve an important first in environmental management: using the best available data set of a single pollutant (SO2) and—beginning with the implementation of a new, market-based scheme of emission control—to track the costs, benefits, and environmental effectiveness of a major new environmental law as that new law is implemented.

ANNUAL ENVIRONMENTAL QUALITY REPORT

CEQ will be releasing its 21st Environmental Quality report by mid-April. I am pleased to say that not only will this report be timely (as it was last year) but it will also be the first such document in many years that was fully prepared in-house by CEQ staff.

I am excited about this year's report because it does not merely recite the present "state of the environment" as many past reports did, but it also looks to the future and discusses in depth emerging trends and strategic topics such as economics and the environment, pollution prevention, and conservation of biodiversity. While I am pleased with CEQ's 21st annual report, I also want to ensure that we are able to continue to produce timely, high quality documents in the future.

PERSIAN GULF

As the CEQ Chairman, I have been fully engaged in the national security apparatus working within the White House on the Persian Gulf war, particularly with regard to the environmental terrorist acts committed by the Iraqi leadership. CEQ will be an active participant in developing post-war United States policy toward this strategic region to ensure that environmental and natural resource considerations are included.

Madame Chair, these are but a few of CEQ's priorities for fiscal year 1992. A more complete listing of all our activities is included in the fiscal year 1992 Budget Request which we submitted to your subcommittee staff last month, and our Strategy Report, which we submitted on January 4, 1991, pursuant to this subcommittee's instructions last year.

I will be pleased to answer any questions you may have on CEQ's fiscal year 1992 Budget Request, or CEQ's activities in general.

ENVIRONMENTAL QUALITY REPORT

Senator MIKULSKI. Thank you, Mr. Deland.

I want to congratulate you for producing the annual environmental quality report on time. Both last year and this year, you met the statutory deadlines. And I must say, it is the first time within a decade that these reports have been met in such a timely, comprehensive way. It is under your leadership that this has occurred.

We have been, in the past, critical of the failure to have this report. I want to thank you for meeting the statutory deadline and for fulfilling the purpose of the report, which is to give us a picture of the state of the environment. It is meant to be a navigational chart, not only for Government policy, but for nonprofits and all the rest of the environment to pursue. We are glad that it is an environmental document and a policy document and not a political document.

You are to be congratulated on that.

STRATEGIC PLAN

Also, we want to thank you for complying with this subcommittee's request in developing a strategic plan. The report provides policy concepts.

As appropriators and not organizers, we believe that the appropriations should follow a mission and should follow a function. That is why we were so eager to have your strategic plan.

I would like to ask some questions along the line of implementation of the mission.

What do you see as the top three environmental priorities in the administration and how does CEQ's strategic plan implement those priorities?

Mr. DELAND. I would list, Madam Chair, as our No. 1 priority, pollution prevention. I would characterize that as the need to change the mindset with which we in this country view our environmental problems. The highly prescriptive command and control statutes of the last 20 years have served this country well. We have made substantial progress.

But I think the time has come, and long since so, to shift our emphasis away from the discharge end of the pipe, what is going into the Potomac River or a Puget Sound, and to begin looking at the heart of the industrial processes to closely examine how they might be modified so that pollution is, indeed, reduced dramatically or eliminated altogether.

I think by harnessing, capturing the creativity of the private sector, we can do just that. I believe that CEQ has a very important role as a catalyst to help fulfill that function. It is with that end, among others, in mind that I suggested to the President that he establish the Presidential Commission on Environmental Quality.

The first item on that Commission's agenda will be to look to some of the leaders in the private sector who are already doing this and to see how their efforts can be replicated, not only across this country, but around the world.

So, I would rank that change in mindset as a very high priority issue.

Senator MIKULSKI. Could I hear what the two other environmental priorities would be? I asked for the top three. You said pollution prevention and you articulated it very well. What would the other two be?

Mr. DELAND. Well, the interagency program such as coastal America is an example of better coordinating amongst interagency operations. I would rank as No. 3 our efforts in the international arena, putting global climate change at the top of that list.

Senator MIKULSKI. Will the CEQ strategic plan that you have given us act as a guideline for Federal agencies involved in environmental protection and could you give us some examples on that?

Mr. DELAND. It will act as a guideline and, I think, again, a current example is that of coastal America. Another example that could well evolve is coordination among the various departmental efforts on the problem of lead. Lead, in my judgment, is one of the major environmental issues confronting this society. It is now dealt with in a number of departments—HHS, EPA, the Centers for Disease Control, and others. I think CEQ has an opportunity to coordinate, and meaningfully so, on that very important issue.

Senator MIKULSKI. As you know, this subcommittee also oversees EPA's budget and

Senator MIKULSKI. In terms of lead, what do you see yourself doing? As you know, this subcommittee also oversees EPA's budget and HUD's request for appropriations.

Mr. DELAND. Well, I think there needs to be coordination across those departmental lines. So, the standards that EPA sets are consistent with those that OSHA sets, so that the Government is speaking and operating with one voice rather than disparate agencies or departments that are not coordinated.

Secretary Sullivan, for example, supports a CEQ role in this regard. He recently sent me a letter, and I chatted with him subsequently about CEQ playing just that kind of coordinating role.

INTERNATIONAL ACTIVITIES

Senator MIKULSKI. In the area of international activity, as to the emerging democracies like Poland, Czechoslovakia, and Hungary, what do you see as CEQ's role, in working as the strategic thinking and patterning on environmental problems of Eastern Europe?

Mr. DELAND. Our role, again, would be that of coordinator. As you have just articulated, their conditions are deplorable. We are taking some steps. We have established, with EPA in a lead role, the Budapest center, which is coordinating activities amongst various Eastern European countries.

I would also say that, the opportunities are enormous. Eastern Europe is crying out for the use of Western technology. We, in my judgment, have a responsibility as well as an opportunity to transfer that technology to Eastern Europe and also to ensure that it does not replicate many of the mistakes during the course of its development that we made during ours.

Senator **MIKULSKI**. Well, Eastern Europe really needs that rise now. Because you know, they are very debt ridden. Communism bankrupted everything but their spirits. They need very concrete technical assistance and leadership from the West to clean up the environment in a way that also faces their own reality. I know that is very important.

Mr. **DELAND**. They do, and I would put the U.S.S.R. in that category as well. We currently chair a bilateral agreement between the United States and the Soviet Union, and I think we need to devote substantial attention there as well.

ENVIRONMENTAL AWARDS

Senator **MIKULSKI**. I want to talk about the environmental awards that you wish to give for environmental education.

Could you tell us what is the purpose of the awards and could our money be spent in a different way to achieve those goals more effectively?

Mr. **DELAND**. My feeling is that, if we are indeed to change the mindset, as I have alluded to earlier, as to how we in this country view our environment, we need to do so at the school level. In my judgment, teachers are the ones who will really shape how the next generation views the environment. Very often, they are underrecognized for their extraordinary efforts.

I think an environmental awards program that is dedicated to rewarding those imaginative, creative teachers is one in which moneys would be extremely well spent.

Senator **MIKULSKI**. What criteria will be used to select the awardees?

Mr. **DELAND**. It would be one teacher per State. Specific criteria have yet to be developed. At the top of my list would be imagination, creativity, as well as an ability to reach out to the children and elicit responses from them. So, emerging from the classrooms, imaginative programs in science and other related environmental areas.

Senator **MIKULSKI**. Will the National Science Foundation and Dr. Bromley's Committee on Science Education also review the criteria?

Mr. **DELAND**. Yes; they would certainly have a role.

We have, following our discussions on this subject last year, conducted a survey of all environmental awards programs within the Government, which your staff has. There is nothing that we have found which replicates this emphasis on teachers.

Senator **MIKULSKI**. Senator Garn.

CEQ'S ROLE

Senator **GARN**. Thank you very much, Senator Mikulski.

Mr. Deland, we are happy to have you before us again today. I note with some amusement that your 14-page statement averaged out to $183,000 per page to justify your budget. Mr. Habicht is going to testify on the $6.2 billion for EPA and that is $413,000,000 per page. At that rate, you would need about one-half sentence to justify your budget. I think it is time we looked at what that means.

Mr. DELAND. I will be briefer next year. [Laughter.]

Senator GARN. On the other hand, maybe it takes more than 15 pages to justify $6.2 billion. We could look at it the other way as well.

You have testified before Senator Mikulski about the need for CEQ to get involved in the coordination of other activities as well as the ones you are already doing, such as, lead-based paint, because there are so many agencies that are involved. You are already looking at global climate change, wetlands, pollution prevention, and so on.

Let me ask you, if you feel that it is also your role beyond coordinating to be an advocate?

I use the wetlands as an issue. I do not think that it is very well balanced. Nobody would disagree that it is important to protect the major water arteries of our country. When the original Clean Water Act was passed, I truly believe that most people anticipated we were talking about major swamps—the Okefenokee, the Everglades—the major waterways, the water fowl in areas of that type and not wanting to lose or degrade those.

I come from a State that is already two-thirds owned by the Federal Government. So, everything we do has to go through some Federal agency, primarily the Forest Service, the Bureau of Land Management, and so on.

Now, we are being intruded upon by the wetlands, massive intrusion on private lands. I sometimes think of what is happening in the Soviet Union. There would be more private ownership of land in the Soviet Union than there is in the State of Utah. [Laughter.]

Nevertheless, we have had some wetlands defined by our wonderful Army Corps of Engineers. One area in my State—and I could give you dozens of examples—of a leaky irrigation ditch, man-made irrigation ditch. It leaked on about 3 or 4 acres. If they repaired the ditch, there would be no wetlands. But a few cattails grew and there are a few field mice running around in the wet part of that field.

So, they want to build a public golf course and ended up spending $60,000 to moving one hole to avoid the wetlands created by a leaking irrigation ditch. In my wildest imagination, I never envisioned that in the Clean Water Act, we would be looking at those wetlands.

In Davis County, where Interstate 15 was built, we now have six lanes of concrete that creates runoff. It ran off the freeway and created some wetlands along the side of the freeway. A man cannot use his own land. These may sound ridiculous, but that is happening day after day after day in my State. It is a ridiculous interpretation of what is wetlands and what we preserve.

Do you have a role to be an advocate for some reason and balance with EPA, the Army Corps of Engineers and other agencies rather than just coordinating?

Mr. DELAND. Yes, Senator, is the short answer. We do have a role to advocate reason and balance.

Now, you asked at the outset whether I viewed CEQ to be an advocacy entity. Yes; to a degree, I do. The name over our door is the Council on Environmental Quality. So, I have the responsibility to ensure that the President factors in environmental interests when making any decision. With that said, the Council does reside within the Executive Office of the President. So, I have to be sensitive to all of the forces, balancing a wide range of aspects that come to bear on any particular decision.

The one of wetlands that you have raised is a particularly contentious and difficult one. The President has established a goal of no net loss of wetlands. That goal is one that will not be achieved easily. It will only come after substantial and laborious discussion, deliberation amongst all of the various entities. We are on that course now. There are no easy answers, particularly.

Senator GARN. The issue here is not an argument with the President over no net loss. I do not disagree with that. It is what is defined as wetlands.

We are getting to the point where we are almost going to be afraid to spit on the ground, because the Army Corps of Engineers will follow you and say you just created a wetland. I mean, I am not overstating the ridiculousness of some of these designations.

So, we can easily meet the President's requirement of no net loss of wetlands without declaring everything that is wet some wetland that has to be preserved to the detriment of individual property owners, considering that the Federal Government, as I said, already owns two-thirds of my State.

I would hope that we would recognize that there is a difference between that policy statement and what is defined as a wetland and get some control over these people that are running wild out there.

Mr. DELAND. As you know, I have discussed this issue with the President. He, as you would expect, wants to see a balanced policy. In order to provide him with one, we need to address the very question that you allude to.

Senator GARN. As far as long-range environmental policy management, everybody remembers the alar scare last year. Tremendous publicity developed over that, creating much more of an issue than really existed. Often these issues are driven by a very well-orchestrated public relations campaign.

Ultimately, when these occur then not only the authorizing committees, but the Appropriations Committees as well, are driven to find some answers to these problems and, in this committee, resources to address these concerns.

Another example is the continuing pressure on asbestos in schools and how we handle that. Radon is a problem that Senator Lautenberg has constantly brought up.

What role is CEQ playing in evaluating some of these environmental issues that—not that they are not real, but they are blown out of proportion with fear tactics. We respond by throwing money at them, when there are other issues that may be of much more detriment to people's health in the environment.

Do you have any role in jumping into these orchestrated campaigns and scare tactics that get so much attention and, therefore, rattle Congress' cage?

Mr. DELAND. We do definitely have a role to look longer term. Should we be funded at the requested level, my first priority would be to turn toward looking at risks and do a better job of correlating environmental risks and the risks that you and I undertake either voluntarily or involuntarily during the course of our day. I think that is a top priority of any agency that has environmental interests.

EPA is spending a good deal of time and energy on it. I think that needs to be augmented by CEQ's coordinating role. I think that, in so doing, that you will be able to differentiate between what, indeed, is a real risk to human health and what is something that one would place in the category of scare or however you choose to characterize the tactic.

Senator GARN. Thank you.

Thank you, Madam Chair.

Senator MIKULSKI. Senator Lautenberg.

Senator LAUTENBERG. Thank you, Madam Chairwoman.

I ask unanimous consent that my opening statement be placed in the record, thereby saving the committee time.

Senator MIKULSKI. Without objection.

[The statement follows:]

STATEMENT OF SENATOR LAUTENBERG

Madam Chairman, having had the opportunity last week in the Environment and Public Works Committee to hear from EPA, I'll be brief.

The Administration's environmental budget raises a number of problems. We see a continuing failure to request adequate funds for sewage construction.

Once again, we see cuts for nonpoint source pollution, which has been cut in half, and the zeroing of the asbestos program.

We see troubling cuts for state pollution prevention programs.

We see an Administration energy program, which doesn't provide even one new energy conservation program.

And we see an Administration Surface Transportation initiative that fails in terms of both energy and the environment.

Fortunately the CEQ fares better in the Administration budget battles. I'm concerned, however, that CEQ's voice is drowned out by OMB. I'm disappointed that CEQ has still not published global warming guidance for environmental impact statements. The Council has also not been successful in having federal agencies prepare impact statements on their overseas actions and on trade agreements, which could have environmental impacts.

So the Administration's environmental policies raise some serious questions. And I look forward to hearing from the EPA and CEQ today, as we attempt to tackle these very important issues.

Senator LAUTENBERG. Mr. Deland, it is nice to see you, and I congratulate you for having been selected as Chairman of the CEQ. We originally met during your confirmation hearings, so you know that I placed a great deal of emphasis on the role that you play as Chairman.

I and my distinguished colleague from Utah may disagree at times on what constitutes appropriate preservation of wetlands or the environment. New Jersey, were it two-thirds, did you say, owned by the Federal Government, we would be so proud. [Laughter.]

New Jersey is a very small area.

Senator GARN. In fact, the Federal Government owns more land in Utah by far than the entire size of the State of New Jersey.

Senator LAUTENBERG. These insults will not get you anywhere. [Laughter.]

Senator GARN. That was not an insult.

Senator LAUTENBERG. Senator Garn knows that I am very fond of his State. I like the mountains. I visit there frequently. It is a magnificent place. We have to preserve the mountains and the wilderness areas. Anyway, enough of that.

INTERNATIONAL TRADE AGREEMENTS

Mr. Deland, I look at the negotiations of trade agreements. It will be on everybody's agenda to review these agreements. We are going to be doing battle over economic leadership. Is our country preparing environmental impact statements, to your knowledge, for any of the international trade agreements that are now being considered, such as, Mexico Free Trade Agreement?

Mr. DELAND. We are looking at all of those agreements, taking environmental considerations into mind and giving them a high priority. We are not uniformly, to my knowledge, preparing environmental impact statements.

Senator LAUTENBERG. Do you have any doubt that trade agreements can have a significant effect on the total environment?

Mr. DELAND. They clearly can, in my judgment, yes.

Senator LAUTENBERG. Could a free trade agreement with Mexico not lead to United States industries moving, perhaps, to Mexico if their environmental requirements are less stringent?

Mr. DELAND. It could well. Your question gets to the heart of one that has been deliberated without an easy answer for the course of CEQ's 20-year existence and the existence of the National Environmental Policy Act; that is, the extraterritorial reach of NEPA. The lines are pretty well drawn on that issue but not yet resolved.

We at CEQ do feel a responsibility to move forward with alacrity on revising the existing executive order that addresses the extraterritorial reach of NEPA and under which such trade agreements' EIS's might come.

Senator LAUTENBERG. I know there has been a lot of thought and discussion to date about equalizing the costs of making goods. We are very disadvantaged here at home if other countries supply or permit their companies to supply materials that are manufactured without stringent environmental standards. Then we promote the continued despoilment of the environment if we encourage that. We encourage it by letting profits be a shortcut to the environmental standard that we adhere to here.

So, it is a subject of great interest and a lot of debate in the Environment and Public Works Committee. It has been a constant subject, and I assume that you are up to date of our interest. In 1988, CEQ prepared guidance for agencies to use in evaluating the impact of their projects on global warming in their environmental impact statements. That guidance, I think, was squashed.

Why have you not yet published this guidance?

Mr. DELAND. We are looking to do that, Senator, and I would anticipate that that guidance would be emerging shortly.

Senator **LAUTENBERG**. We look forward to having it.

I thank you, Madam Chairman, and thank you, Mr. Deland.

[CLERK'S NOTE.—Additional information follows:]

LETTER FROM MICHAEL R. DELAND

MAY 17, 1991.

Hon. BARBARA MIKULSKI,
Chair, Senate Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR MADAM CHAIR: During your subcommittee's hearing on CEQ's FY 1992 budget request, Senator Lautenberg asked me a question regarding CEQ's view on the application of the National Environmental Policy Act [NEPA] on U.S. activities that have an effect on foreign nations.

My response was that CEQ believes this extraterritorial application of NEPA is best handled through an amendment to our executive order, and not through legislative amendments to the statute. As I indicated, CEQ is looking into the possibility of such an amendment to our executive order.

Senator Lautenberg followed up my response with a statement regarding this issue, noting that as a matter of trade policy and environmental policy we need to move forward with this application of NEPA. He then, however, shifted the focus of his next question to a similar yet distinct NEPA international issue—a shift which I failed to pick up on. This question dealt with CEQ guidance for Federal agencies "to use in evaluating the impact of their projects on global warming in their environmental impact statements." The Senator's question in this context was,"Why have you not published this guidance?"

My response should not been that "we are looking to do that * * * (and) that guidance would be emerging shortly"—this mistakenly referred back to the Senator's previous question. Rather, my response to Senator Lautenberg's second question should have been that the administration has taken no further action with regard to Federal guidance on U.S. activities.

CEQ has been concentrating its attention on the issue of global climate change by helping to develop the U.S. position with regard to the larger policy question of how we should deal with the overall problem, rather than on the legal question of its relationship to NEPA. There are still a number of significant uncertainties regarding the science of climate change, and the precise cause and effect relationship of the problem. The administration is not prepared to move forward with NEPA guidance for Federal agencies at this time given these significant scientific uncertainties.

I would appreciate if the subcommittee's transcript could reflect this correction so that there is no further confusion about the administration's position on this important issue.

Sincerely,

MICHAEL R. DELAND.

HEALTH ISSUES

Senator **MIKULSKI**. Senator Fowler, do you have any questions for this agency?

Senator **FOWLER**. Just a general question, Mr. Deland.

I am fishing here. I am not being tricky. I do not know the answer. I am being a bad lawyer.

How much would you say your work in your overall mandate of environmental quality is directly related, can be shown in your work to be directly related to health issues?

Mr. **DELAND**. I would say, and this is just a rough estimate that, over one-half.

Senator **FOWLER**. Name some for me. I was not so much looking at percentages as to see how much the agency thought in terms of the relationship of environmental quality to preventing health problems.

Mr. DELAND. Well, obviously, as you well know, Senator, the two become inextricably intertwined. Increasingly, we have realized that our natural resources have an impact on public health. So, it is less and less easy to draw the kinds of definitive lines we did as recently as just a few years ago.

To be more specific, issues such as the lead one I have alluded to, have direct health impacts. The ones such as coastal America have more indirect health impacts, but nonetheless, health impacts either directly to human beings or to humans through the food chain.

Senator FOWLER. Do you have the capability to do what, I guess, the scientists would call basic research on the health, the possible health ramifications of environmental pollution, specifically, cancer cells?

There are those who say that many cancers have a direct link to the chemicals in acid rain or whatever is put into the water. You usually do not have any trouble finding some scientist somewhere who says that this chemical isolated by itself could not possibly cause any health problems.

Do you have that capability to pursue basic research in that chain?

Mr. DELAND. We at CEQ do not have that research capability. Certainly, other entities do, whether it be NIH or the CDC.

Senator FOWLER. No; I understand.

I am talking about at your home site?

Mr. DELAND. No; we do not.

We do have the capability and, not to the degree that I would like now, to coordinate the efforts that are underway government-wide, to look at environmental trends in health, to examine risks, for example, and take a hard look at how we are characterizing it and how we are managing.

Senator FOWLER. Thank you.

Senator MIKULSKI. I think Senator Kerrey may have some questions, and thanking the testimony from the Council on Environmental Quality, we are about to move on to EPA.

Do you have any questions?

Senator KERREY. I do not.

Senator MIKULSKI. If you have a statement you wish to enter into the record, you may do so.

[The statement follows:]

STATEMENT OF SENATOR KERREY

I, too, am pleased to welcome Deputy Administrator Habicht to the subcommittee this afternoon.

I hope, Mr. Habicht, that you will convey my thanks to Bill Reilly and the others at EPA who worked long hours reviewing the Two Forks Project. For Nebraska—and for Colorado, too—I think it was the wrong project in the wrong place at the wrong time. I know it was not an easy decision but I believe it was an environmentally sound decision. I believe that EPA's veto sends a strong message, not only to the Coloradans, but too all of us regarding the need to consider our water habits. So again, I thank you.

This week, as you probably know, mayors from throughout the country have been in town for a meeting of the U.S. Conference of Mayors. In looking over some of their materials, I was struck by a report on city fiscal conditions which indicated that federal funds as a percentage of city budgets shrank about 64 percent between 1980 and 1990. At the same time, the cities have noted, more and more federal requirements have been imposed upon them. And, when 50 cities were asked to name the five federal mandates which have had the greatest cost implications for their city government, some 66 percent—the largest number—cited environmental mandates including waste, landfills, sewers and leaking underground storage tanks.

The mayors are not alone. A report prepared last November for the Nebraska legislature noted, "funding support from the Environmental Protection Agency, although significant in some areas, is no longer available to fully meet the needs of all environmental protection programs. Surface and groundwater protection programs will not experience significant growth and solid waste programs will not be funded by federal dollars."

I know that you are aware of the problem and I know that there are increases in some of the state grants programs, but I also know that in a largely rural state such as mine, the cut in nonpoint source funds will hurt. And, I know that many smaller communities simply may not have the resources necessary to meet federal regulations. Such a situation not only hinders our environmental efforts but also puts your agency in a very difficult position. You will have to stretch your dollars and technical assistance and reach out to our communities in a constructive—and imaginative—way.

I have noted your emphasis on research and believe it is well placed. I am also pleased with your new educational efforts and look forward to learning more about them.

Senator MIKULSKI. Mr. Deland, thank you.

I know the Senators will have additional questions. We look forward to working with you in the process.

Mr. DELAND. I certainly do with you, Madam Chair, and with the entire subcommittee.

Thank you very much.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Council for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

(1) ENVIRONMENTAL STATISTICS:

QUESTION:

One of CEQ's primary responsibilities is production of an annual report documenting environmental trends, which I'm pleased you've put back on schedule. One of the administration's objections to last year's EPA cabinet bill was that it included the creation of an environmental statistics bureau, which would seem to duplicate CEQ's responsibility of producing this trends report.

EPA's budget request proposes an environmental statistics project, the purpose of which is to produce a State of the Environment Report. Was CEQ aware of this aspect of EPA's budget submission?

How would EPA's production of this report affect the need for CEQ to produce its environmental trends report -- do you feel it would render CEQ's role in statistics collection unnecessary? How will the information presented in the EPA report differ from that in CEQ's annual report, and will you coordinate with EPA to ensure that their work does not duplicate CEQ's?

How much of your budget is dedicated to the environmental trends report?

RESPONSE:

-- Is CEQ aware of EPA's environmental statistics project in the FY 92 budget submission?

CEQ is, and was, aware of this aspect of EPA's budget. CEQ is reconvening the Interagency Advisory Committee on Environmental Trends, which we chair. In this capacity, we will continue to work with EPA and other agencies involved in the collection and analysis of environmental statistics and trends to coordinate overall federal activities in this area.

-- How would EPA's report affect the need for CEQ's report? Would it render CEQ's role for statistics collection unnecessary?

CEQ has an important mandate from Congress under NEPA to advise the President on the state and condition of the environment:

> 42 USC 4344 -- "It shall be the duty and function of the Council...to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective and...to report at least once each year to the President on the state and condition of the environment.

In carrying out this vital mandate, CEQ will take full advantage of EPA's data and statistical information.

-- How would information presented by EPA differ from CEQ's?

The differences are related to the scope, interpretation, and policy uses. The scope of CEQ's report is broader and includes more information on economic, energy, and other socio-economic factors. Currently both organizations are engaged in reviewing and planning stages to refine the content and form of future reports.

-- How will CEQ coordinate with EPA to prevent duplication?

As mentioned, CEQ is in the process of re-convening the Interagency Advisory Committee on Environmental Trends, which we chair. EPA is a member of this committee and will present its statistics project plans to the committee for consultation and coordination.

-- How much of CEQ's budget is dedicated to the trends report?

CEQ's budget is not broken down by line item for each of our activities. For the trends analysis, there is a coordinated CEQ effort which utilizes expertise from a number of our staff. Past efforts have relied on both CEQ staff and support from other agencies, including coordinated efforts through the CEQ interagency committee. Recent and on-going efforts in this regard include contributions from five CEQ professional staff members and two professionals on detail to CEQ -- one from the Army Corps of Engineers and one from the Oak Ridge National Laboratory. For this year's annual report's trends section, we also issued a $5000 contract to update the report's tables and provide graphic displays.

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(2) **WETLANDS**:

QUESTION:

Controversy over how to regulate and enforce wetland requirements continues to be debated among four federal agencies. Last year CEQ claimed it would take the lead in coordinating wetland policies, and that this would be one of the centerpieces of the new CEQ. You personally and your staff have the expertise on this issue. Why has it ended up that the Domestic Policy Council has taken the lead instead? What is CEQ's current role with regard to wetlands protection? Does the increased environmental staff at DPC suggest that some of these efforts may be duplicative?

RESPONSE:

-- What is CEQ's current role with regard to wetlands protection?

CEQ continues to place high priority on implementing the President's stated goal of no net loss of wetlands.

CEQ staff play an active role in the Domestic Policy Council's Task Force, ranging from direct involvement in the planning of the six public meetings held in 1990, to soliciting public input, to the drafting and review of issues and options papers for Task Force discussion.

-- Why has it ended up that the Domestic Policy Council has taken the lead?

The Domestic Policy Council's (DPC) Task Force on Wetlands was established in early 1989, before I came to the White House as Chairman of CEQ. Thus, the decision to handle this complex interagency task in the DPC forum predates my tenure at CEQ.

-- Does the increased environmental staff at DPC suggest that some of these efforts may be duplicative?

No. While the DPC staff includes environmental analysts, we see no duplication of effort. DPC staff generally involve themselves on issues of the moment involving specific policy decisions. CEQ aims for broader, longer term, more substantive involvement.

(3) **LEAD PAINT:**

QUESTION:

The issue of lead-based paint abatement involves a wide range of federal agencies -- HUD, HHS, OSHA, CDC, EPA. The coordination of activities and delegation of responsibilities has been very poor, illustrating the need for a single entity to be "in charge." Does CEQ believe it is best-suited to this job? Are any of the additional employees requested in the budget to be used for this purpose? What resources would be required to take on this responsibility? How has CEQ been involved in this issue to date?

RESPONSE:

-- Does CEQ believe it is best-suited to this job?

The lead contamination issue is one that I have a great deal of personal interest and experience in from my days as EPA Regional Administrator. I am keenly aware of the severity of the problem and share your level of concern and commitment to addressing this national problem.

I strongly believe that CEQ is well-suited to provide an important interagency coordinating role in this regard, and given the complexity, diverse nature, and severity of the problem, increased interagency coordination makes sense. However, coordination issues are still being worked out within the administration.

-- Are any of the additional employees requested in the budget to be used for this purpose? What resources would be required to take on this responsibility?

As indicated on our organizational chart, we presently employ a senior policy analyst in pollution prevention and control. Our FY 92 request for 40 FTE's would allow us to expand the pollution prevention and control expertise on our staff by adding an Associate Director, another policy analyst and a support person. With that capability, CEQ could lead an aggressive interagency effort on lead contamination. Given our present level of resources, we do not have that capability at this time.

-- How has CEQ been involved in this issue to date?

Secretary Sullivan has recently contacted me to suggest a role for CEQ in coordinating the administration's efforts to reduce lead contamination.

Also, CEQ has been asked to co-sponsor the Alliance to End Childhood Lead Poisoning's national conference on preventing childhood lead poisoning this fall. We are currently assessing what role we can play on behalf of the Alliance for their conference given our limited resources.

(4) **ENVIRONMENTAL EDUCATION:**

QUESTION:

In June of last year CEQ put together a paper cataloging federal activities in environmental education. In it you say: "it is consistent with CEQ's charter to take a leading position in the coordination of federal environmental education initiatives." Please explain how CEQ is coordinating environmental education throughout the government.

Do other agencies (Dr. Massey at NSF, Mr. Reilly at EPA, Dr. Bromley at OSTP) agree that CEQ should be __the__ coordinating agency for environmental education" Is that the administration's policy?

__**RESPONSE**__:

-- __Please explain how CEQ is coordinating environmental education throughout the government__?

In June, 1990, CEQ prepared "An Assessment of Federal Activities in Environmental Education" in support of its proposed legislation to establish a Presidential Excellence in Environmental Education Awards program that would recognize teachers. This assessment explained that no other federal agency had a program to reward elementary and secondary school teachers who demonstrated innovation and creativity in environmental education. In CEQ's view, an awards program for elementary and secondary school teachers is a good opportunity to develop environmental literacy and an environmental ethic.

In October, 1990, Congress passed the National Environmental Education Act of 1990 which established several environmental education award programs, most of which are to be administered by EPA. CEQ, however, was authorized to establish and administer the Presidential Excellence in Environmental Education Awards Program. __See__ Pub. L. No. 101-619, § 8(e).

-- __Do other agencies agree that CEQ should be the coordinating agency? Is that administration policy__?

The National Environmental Education Act of 1990 sets up an interagency task force to deal with environmental education issues within the administration. CEQ was included by the Congress as an integral member of that task force.

CEQ has been asked to serve as the Chair of the ex-officio (e.g. federal agency) component of the National Environmental Education and Training Foundation which was created by the Congress in 1990 to advance a broad agenda of environmental education.

(5) __**ENERGY EFFICIENCY**__:

__**QUESTION**__:

In last year's hearing, Chairman Deland said in his opening statement that energy efficiency was an area that needed to be addressed.

The recently-released Energy Strategy gives little emphasis to energy efficiency or conservation. Were you involved in developing the administration's energy strategy, and if so, can you tell us why there isn't more of an emphasis on energy efficiency and conservation in it?

The strategy that originally emerged from DOE was said to have had a stronger emphasis on efficiency and conservation, but was watered down by the White House. Given your strong views on this subject and CEQ's role as an interagency coordinator, how could this have happened?

The Strategy says that "the federal government will achieve additional gains in energy efficiency and cost savings by continuing to invest in cost-effective measures and practices in its own facilities." No details are provided. Can you provide

some details of how the federal government will achieve energy efficiency, particularly in light of a recent study by the Alliance to Save Energy which found that the federal government is the nation's biggest energy waster.

What has become of the initiative to get White House and other federal agencies to recycle?

RESPONSE:

-- The recently-released Energy Strategy gives little emphasis to energy efficiency or conservation. Were you involved in developing the administration's energy strategy, and if so, can you tell us why there isn't more of an emphasis on energy efficiency and conservation in it?

We were involved in developing National Energy Strategy (NES) options for the President.

As to the Strategy's emphasis on conservation, different people seem to have different criteria in mind when assessing the emphasis on energy efficiency or conservation in the National Energy Strategy. I do not agree with the premise that the NES "gives little emphasis to energy efficiency and conservation."

Unfortunately, the media tends to fixate on big-ticket, high-profile issues and ignores the more basic or less visible ones. The big-ticket production elements of the National Energy Strategy -- such as ANWR exploration and development -- seemed to have skewed the perception of the overall Strategy's balance.

The fact is, however, that the Strategy's proposals are balanced. If implemented, the strategy will result in a reduction in energy consumption of approximately the same amount it proposes to increase energy production. The Department of Energy estimates that in the year 2010, reductions in demand resulting from the Strategy will total 3.4 million barrels per day while increases in supply will total 3.8 million barrels per day. These statistics illustrate that the Strategy does contain a balanced emphasis on energy efficiency and conservation.

Among the policies devoted to energy efficiency and conservation I would note the following partial list:

1) More than doubling the proposed funding for conservation and renewables in FY 1992 budget relative to FY 1990.

2) Support for integrated resource planning in utilities, including its application in federal power marketing administrations.

3) Tax free treatment of efficiency investments included as discounts in utility bills.

4) Providing for alternative fuel capable car, truck and bus fleets throughout the country.

5) Accelerated scrappage of older cars that are the most polluting and the least efficient.

-- The strategy that originally emerged from DOE was... watered down by the White House. Given your strong views on this...how could this have happened?

What "emerged" from DOE was an options document for the President's consideration. It was not a proposed "strategy."

Therefore, there was no "strategy" to be "watered down." As to what was included from the options document in the final strategy and what was left out -- as stated above, the President believes this is a balanced strategy, and one which will provide for our energy security, protect the environment and allow the economy to continue to grow.

-- Can you provide some details of how the federal government will achieve energy efficiency, particularly in light of a recent study by the Alliance to Save Energy which found that the federal government is the nation's biggest energy waster.

The federal government is planning to achieve increased efficiency in energy use through 1) the application of energy standards for new federally owned housing, manufactured housing and new homes with federally guaranteed mortgage loans; 2) the purchase of flexibly-capable fueled vehicles (GSA has already taken delivery of 65 such vehicles); and 3) the continued investments in energy efficiency in existing buildings through management and technology changes -- an example of this is the recent relighting of the Old Executive Office Building.

In total, GSA estimates that $6 million in rebates from utility company programs will be received in FY91 which can be used for future conservation efforts.

-- What has become of the initiative to get White House and other federal agencies to recycle?

CEQ, in coordination with the White House Facilities Director and the General Services Administration, has launched a recycling program in the Executive Office of the President on July 16, 1990. The program provides for the collection and marketing of aluminum beverage cans and newspapers. Glass is recycled after major catering events, and the White House lawn clippings are composted. High grade paper has not been widely recycled to date because of security considerations. However, early this summer the complex will begin a new shredding operation and begin a pilot recycling program for high grade shredded paper.

Federal agencies have increasingly strengthened recycling programs. On December 13th, GSA and EPA co-sponsored a federal agency recycling conference, which CEQ helped to plan and in which we participated. The attached article from Waste Age characterizes the success of the federal recycling initiative.

Also, on another matter related to the National Energy Strategy, CEQ will chair an interagency task force to identify improvements in siting, licensing and permitting procedures for energy facilities. The task force will pay particular attention to state siting programs which establish consolidated processes for facility siting and environmental permitting, and will develop models for consideration at the federal level.

(6) **NEW EMPLOYEES**:

QUESTION:

Since 1990 CEQ's staff has increased by 127% (from 15 to 34). CEQ's FY 92 budget calls for 6 new workyears, an 18% increase. Why does CEQ need these additional workyears, and what specific activities and environmental issues will they be used for?

Your budget includes $1.6 million for personnel compensation, an increase of 39% over FY 91. Why is a 39% increase needed to support an 18% increase in staff?

Please provide a breakdown for the record of onboard staff and proposed new staff by grade.

RESPONSE:

-- Why does CEQ need these additional workyears, and what specific activities and environmental issues will they be used for?

Characterizing the restoration of CEQ's staff as a 127% increase may be accurate; however, it is misleading in terms of absolute numbers.

CEQ currently has 22 permanent staff members, three reimbursable detailees from other federal agencies (two are part-time), and one consultant. CEQ is authorized to hire up to 34 FTEs in FY 1991, although given CEQ's FY 1991 appropriation level not all of those positions are likely to be filled.

CEQ's target for growth is the 40 FTE level. This level will allow CEQ to have in-depth expertise in natural resources, pollution prevention, international environmental policy, statistical analysis, and scientific and technical issues. The attached chart indicates our current staff and our staffing plan for 40 FTEs.

CEQ needs these additional staff to adequately fulfill our mission authorized by Congress to analyze important environmental conditions and trends; review and appraise Federal government programs having an impact on the environment; develop and recommend policies to the President for protecting and improving the quality of the environment; assist in coordinating Federal environmental programs which involve more than one agency; and assist in preparation of the President's annual report to Congress. In addition, CEQ will head and staff the President's commission, and under the National Environmental Education Act of 1990, CEQ will also administer a Presidential Excellence in Environmental Education awards program.

-- Your budget includes $1.6 million for personnel compensation, an increase of 39% over FY 91. Why is a 39% increase needed to support an 18% increase in staff?

Funding for the Personnel Compensation and Benefits (PC&B) object classification for FY 1991 is $1,463,000 ($1,170,000 plus 293,000 for benefits) for approximately 25 FTEs (average salary and benefits, including the Chairman, of $58,500). Funding for the PC&B object classification for FY 1992 is $2,034,000 ($1,627,000 plus $407,000 for benefits) for 40 FTEs (average salary and benefits, including the Chairman, of $50,800). Thus, an expected 60% increase in staff (from 25 to 40) would require a 40% increase in PC&B (from $1,463,000 to $2,034,000).

-- Please provide a breakdown for the record of onboard staff and proposed new staff by grade.

Salary Levels for Current Employees

Current CEQ staff serve under the General Service Schedule, are Schedule A or Schedule C employees with equivalent General Service pay levels, or are Administratively-Determined personnel whose salaries are determined by the Chairman.

Civil Servants and Schedule A and C Employees

GS-5	1
GS-9	1
GS-11	2
GS-13	2
GS-14	2
GS-15	3
Sub-total	11

Administratively-Determined Employees

$20,000-$40,000	3
$40,000-$60,000	3
$60,000-$80,000	3
Over $80,000	1[1]
Sub-total	10
Executive Level II	1
TOTAL	22

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[1] This individual is on a reimbursable detail to the Department of Agriculture; the salary and benefits are reimbursed by the department.

Salary Levels for New Staff

Below are approximate anticipated salary levels/grades for new CEQ staff positions:

Associate Director (2)	GS-15
Science Advisor (1)	GS-14/15
Engineering and Technology Advisor (1)	GS-14/15
Senior Policy Analyst (2)	GS-13/14
Economist (1)	GS-12/13
Staff Attorney (1)	GS-12
Policy Analyst (3)	GS-9/11
Staff Assistant (1)	GS-7
Secretary (5)	GS-6

(7) **PERSIAN GULF ENVIRONMENTAL IMPACTS**:

QUESTION:

What role will the Council play, if any, in addressing the environmental impacts of the Persian Gulf crisis? Have you spoken with the President about this issue?

RESPONSE:

CEQ was involved during the war in advising the President, the National Security Council and the Department of Defense on actions to be taken to contain and reduce environmental damage in Kuwait and Saudi Arabia brought on by the Iraqi military. CEQ was also particularly focused on efforts to minimize the effects of the oil released into the Gulf as a result of Saddam's terrorist attack on Kuwaiti oil facilities. CEQ was involved in the preparation of technical teams sent to the Gulf to advise the Saudi Arabia on how best to minimize the effects of the oil.

CEQ, recognizing the widespread public interest in the environmental consequences of the oil release, also organized a briefing for concerned nongovernmental organizations on the efforts made by the U.S. to help deal with this environmental disaster, and to solicit their views for additional suggestions on what else could be done. Among those briefing the nongovernmental organizations were representatives of the Coast Guard, EPA, and NOAA, including a NOAA expert who had just returned from Saudi Arabia.

CEQ is presently working with security and defense agencies to facilitate access by scientists to the Gulf area in order to carry out important monitoring and assessment activities.

CEQ was also involved in the Persian Gulf crisis in terms of NEPA implications from certain activities associated with Desert Shield and Desert Storm.

At the request of DOD we reviewed two specific actions under the existing emergency circumstances procedure in Section 1506.11 of our NEPA regulations, resulting in allowances for two activities by the Department of Defense to move forward without the normal analyses under NEPA.

The first involved an increase in the number of flights from Westover Air Force Base in Massachusetts, for the purpose of transporting troops and military supplies to the Persian Gulf.

The second involved a test at Tonopah Test Range in Nevada for detonation from the air of buried land mines. The test involved a technique which was in fact used to deactivate land mines prior to land movement by U.S. troops.

(8) PRESIDENT'S COMMISSION ON ENVIRONMENTAL QUALITY:

QUESTION:

The PCEQ was created by Executive Order in 1991 to provide the outside views and expertise to CEQ and the President, and will meet quarterly. Has this new Commission been formed and have they had their first meeting? What groups will be represented on the Commission? Who will be the Chair? How many staff-years will be devoted to this project? How much of your budget request will support PCEQ? How does the Commission expect to make a difference?

RESPONSE:

-- Has this new Commission been formed and have they had their first meeting?

The Commission is in the process of being formed. The President is scheduled to make a formal announcement some time in the next two months on membership selection.

-- What groups will be represented on the Commission?

The Commission will have representatives from academia, business, environmental and conservation groups, and foundations.

-- Who will be the Chair?

The President has appointed me to chair the Commission.

-- How many staff-years will be devoted to this project?

Four staff-years.

-- How much of your budget request will support PCEQ?

As stated in the Commission's charter, the estimated annual operating cost is $350,000.

-- How does the Commission expect to make a difference?

The Commission will identify opportunities for businesses, academia, environmental groups and foundations to cooperate in ways which will best protect the environment. The Commission will focus on non-legislative, non-regulatory opportunities with particular emphasis in pollution prevention, natural resources management and conservation, international cooperation, and environmental education.

(9) **WHITE HOUSE ENVIRONMENTAL ADVISORY GROUP**:

QUESTION:

Mr. Deland, you are the new Chair of a White House environmental group. What is the function of this group? Who else is represented? In what ways does this group's role differ from CEQ's?

RESPONSE:

The Presidential environmental advisory committee referred to in my written testimony is the President's Commission on Environmental Quality (PCEQ), and the topic of the previous question.

(10) **TRAVEL**:

QUESTION:

Your travel budget would increase by 67% to $100,000 in FY 92. How much of the travel budget would support UNCED activities, and what would the balance be used for?

RESPONSE:

It was estimated in the FY 92 Budget that an estimated $25,000 or (63% of the increase) would be used in support of UNCED activities both for international and domestic travel.

The remaining travel budget increase in needed to accommodate the expected increase in CEQ staff and travel expenses associated with PCEQ.

(11) **POLLUTION PREVENTION**:

QUESTION:

CEQ is leading an interagency pollution prevention task force. What specific progress has been made by this task force to reduce pollution before it occurs? How specifically is CEQ getting the entire federal government to employ pollution prevention techniques and principles?

RESPONSE:

The National Environmental Policy Act (NEPA) is the overarching authority for federal pollution prevention efforts in this country. Through NEPA's established implementation process, as developed in regulations issued by CEQ, sound environmental management practices -- including anticipating and avoiding environmental degradation -- are woven into the fabric of federal decisionmaking.

CEQ is also using its review and appraisal authority under NEPA to initiate an interagency pollution prevention task force. The shape and charge of this task force is still under development with discussion occurring between CEQ and DOE, EPA, DOD and GSA in particular.

Also, as Chairman of the President's Commission on Environmental Quality (PCEQ), I intend to focus the Commission's first priority on the area of pollution prevention. There are a number of innovative private sector initiatives which businesses have undertaken to eliminate pollution before it occurs. The Commission is an excellent way to tap into the best and brightest minds in business, academia and environmental advocacy to ensure that pollution prevention success stories are replicated throughout the government.

Finally, in an outreach sense, CEQ is promoting -- both within and outside the federal government -- pollution prevention and related issues such as energy efficiency through 1) two chapters in its forthcoming annual report, one on engineering pollution prevention and the other on related economic issues; 2) the recycling activity discussed in question #5; 3) a number of published articles throughout the year, including one co-authored with Secretary Watkins on energy efficiency and a two page editorial which appeared in 10 different Times Mirror publications; and 4) numerous personal appearances and speeches throughout the year.

(12) **U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT:**

QUESTION:

Please outline the activities CEQ will undertake to prepare for the U.N. conference in Brazil, and a break-out of the required resources.

CEQ has primary responsibility for preparation of a National Report, to be prepared in accord with guidelines established by the U.N., and due for submission to UNCED in July of this year. What are the major issues CEQ will address in the report? To what extent will the report identify key international environmental issues facing the world today and discuss how the U.S. approaches them?

The U.N. guidelines for national reports for UNCED state that the reports should include the kinds of international cooperation needed to respond to major problems of environment and development. Will the U.S. National Report deal with the question of what forms of international cooperation are needed to respond to major problems of environment and development? Will the international component of the Report go beyond a description of past U.S. policies and programs?

Will the Report include proposed policies to respond to major domestic environmental problems?

CEQ has announced that it will hold regional hearings after July to receive comment and discuss issues relating to the National Report. To what extent will the comments received at these hearings influence or play a role in formulation of the U.S. positions at UNCED?

Is CEQ constrained from addressing specific issues because solutions would involve demands from developing countries for additional funding?

RESPONSE:

-- What are the major issues CEQ will address in the report? To what extent will the report identify key international environmental issues facing the world today and discuss how the U.S. approaches them?

CEQ has lead responsibility for preparing the U.S. national report. A summary of the proposed preparations is attached to these answers.

The outline of the national report is based on the guidelines adopted at the first session of the UNCED Preparatory Committee meeting in Nairobi in August 1990. The guidelines make clear that "the main purpose of national reports is to present the national perspectives and experience of Member states, together with information on policies, activities and issues at the national level."

In describing the "overall approach", the guidelines state: "National reports should provide basic information on the existing situation in the country in terms of the interactions between the development process and the environment." In addition, the guidelines stress, "In order to ensure that the preparations for the conference take fully into account the progress made at the national level since 1972 and address the concerns and interests of Member States, it is important that national reports provide relevant background information concerning problems that have emerged since 1972 and the progress made in dealing with them. In this connection, countries should focus, as a matter of priority, on the main issues before the Conference, described in General Assembly resolution 44/228."

In addition to the guidelines themselves, the UNCED secretariat has requested that the report be approximately 100 pages in length. A 100 page review of US environmental activities during the past twenty years will necessarily require a "broad brush" approach to the substantive areas identified in the General Assembly resolution. These include:

1. Protection of the atmosphere,
2. Protection of the quality and supply of freshwater resources,
3. Protection of the oceans and all kinds of seas,
4. Protection and management of land resources,
5. Conservation of biological diversity,
6. Environmentally sound management of biotechnology,
7. Environmentally sound management of wastes and of toxic chemicals
8. Improvement of the living and working environment of the poor in urban slums and rural areas, through eradicating poverty
9. Protection of human health conditions and improvement of the quality of life.

The national report should provide a critical review of the efforts made during the past twenty years within the US to address the issues listed above. In describing the US experience, the report should also contain information on the policies, activities and issues that have been a priority concern.

The purpose of the report is to provide the UNCED secretariat with basic information concerning environment and development trends and problems in each country. On the basis of this information, the secretariat will be able to analyze global and regional trends and practices, as well as localized problems that are shared by many countries.

-- Will the Report include proposed policies to respond to major domestic environmental problems?

The national report will not address US policy for UNCED. US policy will be developed through preparation for, and participation in, the meetings of the Preparatory Committee. Three to four such meetings are to be held in the fifteen months remaining before the conference. Recognizing that US policy is likely to evolve as a result of international, intergovernmental, and domestic discussions and debate, it would be unwise to attempt to define US policy in a document to be published almost a year before the conference. CEQ is playing a key policy role in the UNCED prepcoms.

-- To what extent will the comments received at these hearings influence or play a role in formulation of the U.S. positions at UNCED?

CEQ had originally intended to hold a number of public hearings after the national report was published in order to provide a forum in which nongovernmental groups and interested citizens could express their views on the policies that should be considered by the US for purposes of UNCED. Such policies would address both national and international issues.

However, in reconsidering this proposal within the context of interagency consultations, the concern was expressed that waiting until late 1991 and early 1992 to provide an opportunity for those views to be expressed would not allow adequate time for their full assimilation in policy process, since the groundwork for much of the substantive work of UNCED will be laid at the March and August Preparatory Committee meetings this year. Therefore, agreement has been reached that the roundtables that will be convened between May and June of this year to discuss the national report will also be opened for discussion of the national and international policy considerations that may be relevant to US participation in UNCED. The views expressed at the roundtables will be recorded in an informal report of the meetings which will be circulated to all those involved in policy formulation.

In addition, efforts are underway within the NGO community to hold public hearings in connection with the Roundtables, and CEQ has agree to attend those hearings. We have been consulting with groups in Baltimore and St. Louis with regard to hearings to be held after the Baltimore and Chicago roundtables.

-- Is CEQ constrained from addressing specific issues because solutions would involve demands from developing countries for additional funding?

CEQ has not been constrained from addressing specific issues due to a concern that developing countries would make demands for additional funding. We also believe that existing international assistance institutions as well as commercial sources of financing should be fully and efficiently utilized and redirected as appropriate to address the broad range of high priority environmental issues confronting developing countries.

-- Please break-out of the required resources.

CEQ has estimated that the resources required for the national report, including the organization of the roundtables and the report editing, printing, and distribution is $155,000. As these funds were not included above and beyond CEQ's normal operating budget allocation, CEQ has requested contributions to defray these costs from the various federal agencies which are cooperating in the preparation of the report and the convening of the roundtables.

In addition, the CEQ's international policy staff members have been devoting a substantial amount of their time to the preparation of the national report and US policy for UNCED, and it is expected that they will continue to do so until the conference is convened in June 1992.

(13) GLOBAL CHANGE:

QUESTION:

What further activities does CEQ plan to support the development of a convention on climate change given the results of the recent global climate change negotiations held last February in Chantilly, VA?

The Senate Appropriations FY 91 report requested the Office of Science and Technology Policy to prepare a report making recommendations for simplifying and institutionalizing the responsibilities shared between OSTP and CEQ on global change. OSTP's report suggested that one of CEQ's primary roles was that of contributing to policy discussions. Does CEQ concur with OSTP's report?

RESPONSE:

-- What further activities does CEQ plan to support the development of a convention on climate change given the results of the recent global climate change negotiations held last February in Chantilly, VA?

As you know, I represented the President in opening the recent session of the UN Intergovernmental Negotiating Committee (INC) on climate change. In my remarks, I signaled very clearly the seriousness with which the President regards this issue. The international delegations represented in Chantilly, as well as the U.S. environmental community, recognized these remarks as an important clarification of U.S. climate policy. As I stated at the conference, "We are united in our belief that despite uncertainties, the potential threat of climate change justifies taking action now."

In the coming months, as the INC process moves ahead, we at CEQ will continue in, and expand upon, our efforts to respond to climate change wisely, appropriately, and in a timely fashion. Specifically, we will add to our capabilities in the critical area of environmental economics. I will continue in my capacity as vice-chair of the DPC Working Group on Climate Change. CEQ will be represented on every US delegation to the sessions of the INC process.

-- Does CEQ concur with OSTP's report?

The report from the Office of Science and Technology Policy (OSTP) to the Senate Appropriations Committee on the interrelationships between CEQ and OSTP on climate issues, delineated distinct and complementary roles played by the two offices. That report stated that CEQ contributes law, international relations, and economics expertise to White House climate policy deliberations, just as OSTP contributes physical sciences analysis.

Indeed, these two roles fully reflect the agencies' mandates which are also outlined in that report. CEQ joined OSTP in the drafting of that report and concurs fully with it.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF F. HENRY HABICHT, DEPUTY ADMINISTRATOR

ACCOMPANIED BY:

- **CHARLES C. GRIZZLE, ASSISTANT ADMINISTRATOR FOR ADMINISTRATION AND RESOURCES MANAGEMENT**
- **DAVID P. RYAN, COMPTROLLER**
- **E. DONALD ELLIOTT, GENERAL COUNSEL**
- **TIMOTHY ATKESON, ASSISTANT ADMINISTRATOR FOR INTERNATIONAL ACTIVITIES**
- **JOHN C. MARTIN, INSPECTOR GENERAL**
- **ERICH BRETTHAUER, ASSISTANT ADMINISTRATOR, RESEARCH AND DEVELOPMENT**
- **LA JUANA S. WILCHER, ASSISTANT ADMINISTRATOR FOR WATER**
- **WILLIAM G. ROSENBERG, ASSISTANT ADMINISTRATOR FOR AIR/RADIATION**
- **LINDA FISHER, ASSISTANT ADMINISTRATOR FOR PESTICIDES AND TOXIC SUBSTANCES**
- **DON R. CLAY, ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSE**
- **RAYMOND B. LUDWISZEWSKI, ACTING ASSISTANT ADMINISTRATOR FOR ENFORCEMENT**
- **DANIEL P. BEARDSLEY, ACTING ASSISTANT ADMINISTRATOR FOR POLICY**
- **NATHANIEL SCURRY, DIRECTOR, OFFICE OF CIVIL RIGHTS**

Senator MIKULSKI. The subcommittee will now move on to the testimony on the Environmental Protection Agency's appropriation request for 1992. The statement will be given by Mr. Henry Habicht, the Deputy Administrator.

The subcommittee welcomes you and we understand that your Administrator, Mr. Reilly, has been speaking for the President in Ottawa, while signing the Canadian-United States of America Acid Rain Agreement.

Mr. Reilly called me yesterday. We went over some fine points in the testimony, and as we go through the appropriations process, we will be working with both of you.

I will insert my complete statement for the record.

[The statement follows:]

STATEMENT OF SENATOR MIKULSKI

I now want to welcome to the witness table EPA's Deputy Administrator Hank Habicht. I'm sorry Administrator Reilly couldn't be here today—we know President Bush asked him to go to Canada for the signing of the Acid Rain Accord—but we know you are a highly able Acting Administrator.

EPA's mission to protect our Nation's and our planet's environment has grown enormously since it was established in 1972. The Agency's responsibilities have expanded from mostly regulatory activities to include policy and research.

While in some areas EPA's budget reflects this heightened stature, there are some gaps. The requested budget of $6.2 billion represents an increase of less than 2 percent overall. We note there are substantial cuts in areas like wastewater construction, asbestos, and nonpoint source.

The operating programs increase by 7 percent for a total of $2.5 billion. A substantial chunk of this increase would go to implementing the Clean Air Act amendments, a truly landmark piece of legislation which we are highly supportive of.

The budget proposes to cut the sewage treatment construction grants State revolving fund program by about $500 million—25 percent—to $1.5 billion. This concerns me, particularly as the program approaches its phaseout in 1994 and a substantial amount of wastewater construction need still exists. I note that EPA's 1990 "needs survey"—documenting wastewater construction needs nationwide—is due out shortly, and we're anxious to find out the latest estimate.

The construction grants request includes special earmarks for several wastewater construction projects in a number of cities. There is some concern with this proposal, since the earmarks will decrease the total amount available for competitively awarded grants. We'll want to ask some questions on that.

For Superfund, the budget would provide an 8-percent increase, bringing its budget to $1.75 billion. Emphasis is placed on direct-site cleanups and enforcement. I'm glad to see the renewed vigor with which EPA is going after polluters to get them to pay for the mess they created.

I want to mention how delighted I am to see EPA's focus on risk-based planning, and I intend to examine today how EPA's budget request reflects that new focus. I want to explore how EPA has incorporated the very important recommendations of its Science Advisory Board into its budget and planning process. We want to be sure that EPA is putting its resources where it makes the most sense, particularly at a time when resources are tight.

Mr. Habicht, go right ahead with your testimony.

Senator MIKULSKI. Welcome, Mr. Habicht.

Mr. HABICHT. Thank you very much, Madam Chair. We very much appreciate your understanding of this last-minute call Bill Reilly got from the President.

I am delighted to be here to represent the Agency. He, as well as all the people on our team, look forward to working with you and the subcommittee in the months ahead. This is a very important year for environmental protection and for EPA and strategic planning, many issues that we have talked about in this subcommittee before.

STATEMENT SUMMARIZED

I want to, with your permission, Madam Chair, submit our written statement for the record. I would like to spend a few minutes laying out our thinking in preparing this budget. With each passing year, our process is evolving into one that is based more on cross-media and strategic kinds of priorities.

We think the 1992 budget request demonstrates the depth of the President's commitment to a safe and healthy environment. We all know what a tight budget climate this is. This request, in which our core operating budget is increasing by 8 percent, is a sign of the President's commitment.

I would like to spend just a few minutes describing the context for this budget request.

As you know, with the current budget deficit situation and last fall's budget summit agreement, the term "zero sum gain" now has a very real meaning for the Government. The overall need for investments in one agency to be matched by disinvestments elsewhere in Government, forces us all to focus strategically on our highest priorities. In the environmental area, we have to pay particular attention to State and local governments, which are facing increasing environmental requirements and tighter budgets.

In our 20-year life at EPA, we have been directed by Congress to fulfill large and constantly growing expectations. In my 2 years as Deputy Administrator alone, Congress has enacted more than 25 new laws for which EPA bears some significant responsibility, from clean air to pollution prevention to oil spills and to environmental education. For many years, EPA was essentially a no-growth agency. We barely grew as fast as inflation and we were having increasing difficulty meeting these new obligations.

President Bush has changed that. In the past three budgets that we have submitted, EPA's staff has grown by 15 percent and our operating budget has increased by 26 percent. While it will take time for our resources to come into line with all of these new requirements, and given the Federal budget climate, Bill Reilly and I believe the President's proposal for 1992 is very promising and we are proud to present it to you. It helps us set the stage for environmental protection in the 21st century.

BUDGET REQUEST

Let me describe generally what is in this budget and how we got there.

In order to ensure that we are as effective as possible in protecting the environment, as you know, we have engaged outside experts, our Science Advisory Board and EPA's own experts, to step back from some of the artificial compartments that are often created by our statutes—air, wastewater, and so forth—and look strategically and environmentwide at the real priorities. I look forward to discussing with you the directions that have emerged from that planning process, which are ongoing, and the results of a planning meeting we recently held in Baltimore; and what a great city that is.

CROSS-MEDIA INITIATIVES

Madam Chair, our 1992 budget request increasingly and more explicitly begins to address cross-media kinds of perspectives and initiatives, which we hope will be increasingly involved in future budget requests, as we merge planning with budgeting. The year 1992 is the beginning of this process. We expect our 1993 budget will reflect these kinds of strategic priorities even more.

The idea is to foster more integrated solutions and innovative solutions to these growing environmental problems that we face. Cost-effectiveness is especially important, as I had mentioned.

We want to work with you to help reshape and refine this agenda, focusing on the important role of science. The discussion with CEQ focused on the importance of having a foundation of good, scientific information and a major focus on preventing pollution before it becomes a problem.

Ecology, the protection of natural systems, has to have an increasingly important role as we focus on this in our geographic initiatives such as the Chesapeake Bay, the Great Lakes, and other geographic-based, ecological initiatives.

We also intend to emphasize new approaches in addition to regulation. This would include the use of market-based incentives and voluntary agreements such as our voluntary toxic reduction initiative that we inaugurated this year.

It is also, we believe, a moral imperative that we pursue new technologies, like biotechnology and bioremediation, which we used so effectively in Prince William Sound in Alaska. We are delighted that the *Exxon* case is now settled as well. We have to remain sensitive to cost-effectiveness and, again, burdens on State and local governments.

The philosophical foundation for these new directions in the 1992 budget can be found in the Science Advisory Board report, "Reducing Risks." In reading that report and focusing on our own strategic planning process, we are working to focus our resources and programs on the greatest environmental risks. To do this, we have to invest in a foundation of good science and good data systems, so that we can diagnose environmental problems and measure progress once and for all.

Pollution prevention is going to be an organizing theme of our multimedia strategies. This includes our strategies for enforcement, where we are emphasizing multimedia enforcement in at least 25 percent of our cases this year.

Let me mention what we think are the elements that reflect the strategic approach.

Implementation of a new Clean Air Act is obviously a priority this year. It is also a high-risk area. It is a great accomplishment of both the Congress and the administration.

Second, we are focusing on food safety, through the use of safer pesticides and improved registration and use of pesticides.

Third, we want to enhance protection of natural systems through geographic initiatives and through natural resource research. Environmental education will be a major priority to promote environmental literacy and stewardship, as well as improved science, economics, and data.

I will now mention some specifics on the 1992 budget.

BUDGET HIGHLIGHTS

This year we are asking for $6.2 billion and 17,622 work-years. Our request for the trust fund programs, the Superfund and leaking underground storage tanks is $1.84 billion, an increase of $154 million, or 9 percent, over the 1991 appropriated level. This area also includes an increase of 135 work-years to focus on Federal facility enforcement in the Superfund area.

In Superfund, where our budget is $1.75 billion, we are emphasizing continued progress, more emphasis on closure in Superfund, on the cleanup end of the pipeline and following through on Superfund management review and enforcement first and risk priority process that was set forth that Bill Reilly helped to lead in 1989. We are doing extremely well in enforcement, as you know. For the second year in a row, we achieved more than $1 billion in private party contributions to clean up in 1990. We will continue to focus on getting the job done in Superfund.

In the construction grants area, the budget provides for $1.9 billion. This includes $1.5 billion to continue capitalization of the State revolving funds and an additional $300 million for targeted grant assistance to meet secondary wastewater treatment needs in five coastal cities and also $100 million to get the job done in Tijuana, Mexico, where we have an international water quality issue that is particularly acute.

In our operating programs, we were asking for a budget of $2.5 billion, or an increase of $164 million. That is 7 percent over 1991 appropriated levels. We are also asking for an increase of 705 work-years.

Let me just briefly focus on the major areas of priority, the risk priorities.

CLEAN AIR ACT

I mentioned the Clean Air Act as a major area of priority. Successful implementation of this statute is a top priority of the President, to follow through on the success of the reauthorization process. The President is asking for $516 million and over 2,500 work-years to implement the legislation. That is over a 60-percent increase over the last 2 years in clean air. The environmental public health and welfare across the board will benefit from this Clean Air Act.

ECOLOGICAL PROTECTION

Second, protecting natural systems is a strategic priority for EPA. This year's budget requests $205 million and 633 work-years to focus on valuable wetland resources, estuaries, and coastal systems, to make sure that these programs make sense and are understood and are effective. It also focuses on geographic regional ecosystems like the Great Lakes and Chesapeake Bay.

We also are going to increase our investment in science to support ecology and research in geographic areas of sensitivity.

The budget also provides for $21 million for protection of coastal resources and for dealing with major problems such as nonpoint-source pollution in these areas. A major initiative is the administration's collaborative effort among the EPA, the Fish and Wildlife Service, the Corps of Engineers, and NOAA to develop a major program for protecting our coastal resources.

INTERAGENCY COOPERATION

Madam Chair, you have often called for more interagency cooperation. We think this is a great beginning. It is certainly a start. Also, in the coastal area, we have a major increase for implementing the Oil Pollution Act of 1990.

Next, we are asking for $40 million for protection of the global ecosystem, which again, is a major priority of the Science Advisory Board. We will be happy to go into detail on the elements of our global initiatives, but we are making enormous progress in focusing on these risks, strategically on these risk priorities.

LEAD EXPOSURE

Another key area, as you know, Madam Chair, of priority for EPA is the health risk concern that stems from our children's exposure to lead. In today's Washington Post I am sure you noticed an article this morning which talks about the serious potential health and neurological problems caused by lead to young people. We are asking for an increase of 50 percent in our resources focusing on abatement and reducing exposure to lead.

This is an interagency effort with the centers for disease control, Housing and Urban Development, dealing with lead paint, improving training, improving research, and coordinating all of our agencies' programs on a multimedia basis to deal with the lead problem.

ENVIRONMENTAL EDUCATION

In environmental education, we have a major increase across the board, including $7 million of new money for primary and secondary environmental education. We think this, like good science and data, is a foundation for long-term environmental protection. It is an investment that has to be made. The long-term benefits, as you well recognized from hearings we have had in the past, are enormous.

FOOD SAFETY

Another major initiative is an increase in the budget to ensure that our food supply is safe and that public confidence is where it should be in the food supply, which is certainly among the safest of any country in the world. But we have to continue to invest, to ensure public confidence in science and research and outreach efforts with the public and the growing chemical community, strong enforcement and better interagency cooperation. That is a major priority in the food safety area.

As we have mentioned, science and better data and better analyses are the foundations for strategic planning. We have a major investment in the knowledge base for environmental protection, including a 20-percent increase in the basic research budget of the agency. We will gain public confidence and acceptance of a priority approach to risks if we have sound data and analyses. We will be focusing on a range of domestic and international research issues.

GEOGRAPHIC INFORMATION SYSTEM

It is also important that we strengthen our investment and analytic and economic analysis capabilities. One of the most exciting developments in environmental protection is the introduction of a geographic information system, which really helps us both to communicate to the public and also set priorities ourselves with regard to risks in particular geographic areas of the country.

At some point, we would love to demonstrate for members of the subcommittee, particularly you, Madam Chair, because of your interest in this area, how the geographic information system works in representing both ecological and health risks in different parts of the country.

Let me close simply by saying that this budget represents unprecedented integration among all these multitude of environmental programs that EPA is developing. I think over the next year, we want to work closely with you on our process of setting strategic priorities, looking across program lines, finding ways to integrate our resources, to set priorities on the rest so we invest in the near term where it will do the most good, find the most cost-effective ways to promote pollution prevention, reduce risks, and basically have all of society take part as effectively as possible in preventing pollution and protecting the environment.

With that, I look forward to all of your questions. I appreciate your indulgence. I thought it was particularly important that we lay out our thinking and how we really are looking much more systematically at all the requirements that we have.

[The statement follows:]

STATEMENT OF F. HENRY HABICHT

Madam Chair and members of the Committee: I want to thank the members of the committee for the opportunity to present the President's 1992 Budget Request for the Environmental Protection Agency (EPA). The President's Budget Request affirms the President's commitment to building a safe and healthy environment.

Let me first set the context for your consideration of this budget. You are familiar with the state of the U.S. economy, and with the very serious deficit cloud that hangs over Federal policy makers. You know also that the budget agreement reached between Congress and the Administration last fall sharply restricts the growth of Federal spending, and limits increases in domestic outlays. As a result, all of us in government have a new and precise understanding of the concept of a "zero sum game." The Federal budget is small and cannot grow. If EPA's piece is to grow it must do so at the expense of some other domestic agency.

In EPA's 20-year life, the Agency has been directed by Congress to fulfill large and ever-growing expectations. Over the past two years, the Congress has enacted no fewer than 25 new laws for which we bear some responsibility, from Clean Air to Pollution Prevention, to oil spills, to Environmental Education. The Bush Administration has provided strong support to EPA in carrying out these responsibilities. Since President Bush took office, EPA's operating programs will have increased by 41 percent and its workforce will have been expanded by 20 percent.

The Agency has pursued a progressive environmental program and an aggressive approach to enforcement actions.

After ten years of stalemate on Clean Air, the Bush administration went on the offensive, conceived, advocated, and worked with you to achieve a sweeping, comprehensive new Clean Air Act with emissions trading and alternative fuels and ambitious new standards and requirements. It is now law, and we at EPA give the highest priority to realizing its promise. Combined with the increases provided in 1991, EPA will have available a total of approximately $200 million and 600 workyears above 1990 levels to implement the Clean Air Act.

In 1989, we set new records in the vigor and aggressiveness with which we enforced the Nation's environmental laws. Last year, we broke our own records from the year before, collecting a three-fold increase in responsible parties' contributions to clean up hazardous waste—$1.3 billion. We also sent more criminal and civil referrals to the Justice Department than any previous Administration in a similar time-frame. Our motto is "polluter pays."

The Agency has required substantial new investments to protect the visibility of the Grand Canyon using the authority of the Clean Air Act.

EPA has accelerated the pace of cleanups of hazardous waste sites and encouraged the use of new technologies, such as bio-remediation. Six out of ten of last year's Superfund cleanup remedies called for an innovative technology.

The Agency has banned asbestos and has asked for authority to cut in half the time it takes to cancel a pesticide that poses a threat to health.

We have asked the Science Advisory Board to classify and set priorities for the principle threats to health and ecology and are considering ways to adapt the Agency's budget and resources to correspond to the best scientific judgment of where the largest risks lie.

EPA has calculated the costs of pollution control and projected these costs forward through the end of the century, both public sector and private sector costs. We have noted that the problems slated to receive the largest investments do not necessarily correspond to the problems that appear to pose the greatest threats to health and the environment. We have encouraged a debate in the Congress and in the country on the policy implications of the apparent incongruity between public perceptions and the judgment of many professionals. In no way, however, will we diminish the rigor with which EPA implements the mandates given to us by Congress. Our intent is to stimulate a broad discussion.

We recognize that some of the greatest burdens of environmental management will fall upon the States and we have therefore proposed a 56 percent increase in grants to the States during this Administration. This budget also includes strong support to capitalize State Revolving Funds for water quality.

The Agency has given a new high priority to international cooperation, first with Canada (where we will soon consummate an accord on acid rain), second with Mexico (where we have posted the Nation's first environmental attache and where we are together strengthening environmental protection in Mexico City and along the border in preparation for a free trade agreement).

We are also cooperating with other nations to phase out ozone-destroying CFCs, to conclude a framework convention on climate change, to finance and staff the new Regional Environmental Center for Central and Eastern Europe and to help Cracow, Poland purify its drinking water and control its air pollution. We also have entered into a new agreement to help Brazil gear up to address its environmental problems.

EPA plays a key role today in fields not previously familiar. We worked on the President's proposal to plant a billion trees a year. We are training new Peace Corps Volunteers in pesticides management, groundwater protection, and forestry. We are intimately involved in the President's Enterprise for the Americas Initiative with its innovative debt-for-nature proposal to increase the funds available for conservation in Latin America.

I am very pleased to note that if our 1992 Budget request is approved, the Agency's budget for Operating Programs and Trust Funds will have increased by $1 billion, and our workforce will have grown by more than 3,100 workyears since the Bush Administration took office.

The President's commitment to improved environmental protection is unwavering. The Agency's Operating Programs and Trust Funds are together proposed to increase in fiscal year 1992 by 8 percent, double the rate of increase available for total domestic discretionary spending.

OVERVIEW

Let me now turn to some specifics of the Agency's budget for fiscal year 1992. The Agency's total budget request is $6.2 billion and 17,622 workyears. EPA's budget includes three main categories: (1) Operating Programs, (2) Trust Funds, and (3) funds transferred directly to the States through the Construction Grants program.

The budget request for our Operating Programs is $2.5 billion, an increase of $164 million or 7 percent over the fiscal year 1991 appropriated level. We are also requesting 13,929 workyears, an increase of 705 workyears or 5 percent over the fiscal year 1991 appropriated level.

Our request for the Trust Fund programs (Superfund and Leaking Underground Storage Tanks) is $1.84 billion, an increase of $154 million or 9 percent over the appropriated level. Our Trust Funds request also includes 3,693 workyears, an increase of 135 workyears over the fiscal year 1991 appropriated level.

The President's budget for Superfund provides $1.75 billion, an increase of $134 million, or 8 percent over the fiscal year 1991 appropriated level of last fall. This request recognizes the continuing progress under Superfund. More final cleanup actions are underway; we have invigorated enforcement through our "enforcement-first" strategy. We are following the blueprint of the Superfund Management Review, which the Administrator announced at his confirmation hearing and unveiled in June 1989. These actions are shifting the burden from the federal government to the potentially responsible parties. And last year, for the second year in a row, we secured more than $1 billion in private party contributions, up threefold from 1988. Our track record on Superfund management will continue as an Agency priority. We are also enhancing our efforts to oversee the cleanup of wastes at Federal facility sites, where we will soon have interagency cleanup agreements for all sites on Superfund's National Priority List.

The Leaking Underground Storage Tanks request is for $85 million, an increase of $20 million or 31 percent over the fiscal year 1991 enacted level. This budget will further expand our efforts in support of state capacity building to address Leaking Underground Storage Tanks releases and enforcement actions.

The President's budget provides $1.9 billion for the Construction Grants program, consistent with authorized funding levels. This includes $1.5 billion for the State Revolving Funds (SRF), which will continue the Administration's strong support for the capitalization of state programs. Another $300 million is provided for targeted grant assistance to address secondary wastewater treatment needs of Boston Harbor, San Diego, Seattle, New York, and Los Angeles. These investments will have a significant positive impact on coastal water quality. An additional $100 million is requested under a separate Water Quality Act authorization to build a treatment facility at the U.S.-Mexican border to treat raw Tijuana sewage flowing into the U.S.

The 1992 Budget provides resources and leadership needed to continue to make progress into the 21st century.

This budget will allow EPA to set the framework for environmental protection into the twenty-first century. Under the President's leadership, we will use the substantial increase in funding to foster new and innovative solutions to the many environmental challenges facing our country and the international community. We will continue our efforts to reshape and refine our agenda, particularly with respect to strengthening the role of science, and to preventing pollution before it becomes a problem. We will elevate the protection and restoration of natural systems, as recommended by the Science Advisory Board. We will continue to develop and apply a broad array of tools and strategies, including market-based incentives (such as we built into the Clean Air Act), voluntary agreements (which we are seeking from major emitters of toxics) and multi-media enforcement. We will continue to pursue new technologies like biotechnology and bioremediation, which we used so effectively in Prince William Sound in Alaska. We will continue to remain sensitive, in all we do, to the need for cost-effectiveness and efficiency, the need for which is made clear by our own report, "The Costs of a Clean Environment."

We recognize that the challenges we face today—which range from pollution in the household and pesticide residues in food, to growing threats to the planet's atmosphere and natural systems—require integrated solutions that focus resources on the most serious problems, and make full use of all the means available to us, including many that go beyond our traditional command and control regulatory methods.

The 1992 Budget focuses on strategic initiatives and areas of high risk.

The foundation for the new directions in the Agency's fiscal year 1992 budget is found in the report "Reducing Risk," which I have already mentioned.

The recommendations in "Reducing Risk" call for: (1) greater attention to risk reduction and pollution prevention, (2) stronger emphasis on the protection of natural systems, (3) improved scientific data and analyses, (4) increased environmental education, (5) improved analysis of the economic consequences of environmental policies, and (6) closer cooperation between EPA and the many other Federal agencies, state and local governments, and private sector institutions on behalf of environmental protection.

Our fiscal year 1992 budget moves us a long way in the direction spelled out in the Science Advisory Board's recommendations. Our decisions have been guided by risk reduction principles to focus our resources and programs on the greatest environmental risks. Pollution prevention remains the first priority of EPA, and it is being incorporated as a fundamental building block in all of the Agency's programs. This budget also advocates significantly expanded application of recycling and pollution prevention practices at the state and local levels. Multi-media strategies are being developed for the Agency's enforcement efforts. In fact, our enforcement staff will ensure that at least a quarter of the actions they bring cite more than a single statute, and that remedies and settlements emphasize protection and cleanup of the environment, not just correction of the statutory offense.

We are proposing to bolster ecosystem-wide programs such as our initiative to restore the Great Lakes and the Chesapeake Bay. We are augmenting traditional command-and-control approaches by voluntary compliance strategies. Agency decision making is being improved through stronger science, better quantitative assessments of risks, and more rigorous calculations of costs and cost-effectiveness. We are cooperating closely with members of the regulated community to leap beyond incremental pollution redirection to make major gains.

The Agency's fiscal year 1992 budget will enable us to work closely with our environmental partners here and overseas. The Agency is working to integrate the Country's economic goals with our environmental needs and to ensure that individuals throughout our society have the knowledge to make wise choices. We are working with state and local governments, as well as Indian tribes, which we are treating as States, to bolster their ability to implement effective programs.

The Agency is also expanding its work with international partners. Our success last year in renegotiating the Montreal Protocol to phase out CFCs by the year 2000, and in opening the Central and Eastern European Regional Center in Budapest has engaged EPA in two of the most critical environmental dramas of our time: the urgent need to protect the ozone layer, and clean up after the environmental catastrophe by Communist governments in Eastern Europe.

To be effective, our strategy must translate into specific actions in fiscal year 1992. The Agency's budget will focus resources on: (1) implementation of the new Clean Air Act—the most sweeping and important piece of environmental legislation in the last decade, (2) food safety through safer pesticides and improved pesticides registration, (3) protection of productive natural systems through multi-media actions targeting specific geographic areas, through greater attention to the country's critical coastal ecosystems, and through more research and analysis of global climate change, (4) reducing exposure to lead in the environment, (5) accelerated clean up of hazardous waste sites through better targeting of resources, (6) environmental education to foster environmental literacy throughout our society and a heightened sense of individual responsibility and stewardship, and (7) improved science, data, and economic analyses to ensure the integrity of Agency decisions.

The Agency's risk reduction strategies will be implemented via our 1992 initiatives.

Let me now highlight some of the specific initiatives stemming from our emphasis on strategic planning and risk-based decision-making in our fiscal year 1992 Operating Programs.

CLEAN AIR ACT

I am proud of our collaborative achievement in getting a new Clean Air Act in 1990. As President Bush stated: "This legislation isn't just the centerpiece of our environmental agenda. It is simply the most significant air pollution legislation in our Nation's history, and it restores America's place as the global leader in environmental protection."

Successful implementation of the new Clean Air Act is a priority of the President and the Agency; in fiscal year 1992, more than 70 percent of the increase in the Operating Programs will be devoted to the Clean Air Act. These resources will enable EPA to begin fulfilling the Administration's commitment to provide cleaner air for every American. Though the task is formidable, the benefits are enormous: healthier air for all of us to breathe, reduced respiratory illnesses and cancer; cleaner factories, fuels, and cars; improved visibility; better energy utilization and less dependence on foreign oil; restoring and preserving our productive natural systems by vast reductions in acid rain precursors and in the compounds that cause ozone.

We are bringing on approximately 600 new full-time personnel during the first two years to help us implement the Clean Air Act. Our new hires, a couple hundred of whom are already on board, are highly motivated, well-educated, and diverse.

ECOLOGICAL PROTECTION

Protecting the Nation's productive natural systems is a high and growing priority for EPA. Protection of these systems is essential to the health of the Nation's economy, to the quality of life in America, and to our position of environmental leadership in the international community.

Because of the President's commitment to these important ecological needs, our fiscal year 1992 budget emphasizes valuable wetlands, estuaries, and coastal systems; the most important regional ecosystems, like the Great Lakes and Chesapeake Bay, which showcase the Agency's new risk-based, multi-media approach to environmental protection; major problems such as non-point source pollution; and the global ecosystem with special emphasis on global climate change. Our primary objective is to help stabilize and protect earth's life-support systems. To this end, we are proposing to expand the Ecological Monitoring and Assessment Program to the Great Lakes and the Gulf of Mexico. This research program is designed to identify and assess our Nation's ecological resources.

The President's budget provides significant resources for coastal initiatives. I am happy to announce that this budget will enable EPA to make a major contribution to the Administration's Coastal Living (America) Resources Initiative. This initiative is an example of the new agenda being pursued in the fiscal year 1992 budget. Through this initiative, EPA, along with the U.S. Fish and Wildlife Service, Corps of Engineers, and NOAA, will work to integrate environmental actions in public policy by developing a comprehensive plan for the protection, maintenance, and restoration of our nation's coastal resources.

A second initiative with significant implications for the coastal regions is the implementation of the newly enacted Oil Pollution Act of 1990. The Agency will increase its efforts to prevent and minimize environmental damage from oil spills in the nation's navigable waters. This effort will be funded by taxes on both domestic oil production and imported oil and petroleum products.

Increases in the fiscal year 1992 budget for protection of the global ecosystem will strengthen the Agency's Global Climate Change programs. EPA has done some of the seminal research, valued the world over, on the potential effects of climate change, and in possible policy responses to these scenarios. This budget will expand upon existing programs, including analysis of cost-effective domestic policy options and scientific research to help us better understand global climate change. These are especially important in terms of the long term high risk factors discussed in the "Reducing Risk" report.

LEAD

An increased Agency investment will focus on reducing exposure to lead. We are evaluating the long-term efficacy of abatement and in-place management, improving training, and sponsoring research to advance our understanding of human health impacts from lead contamination. We are emphasizing programs that reduce lead exposure to children, the most vulnerable segment of our Nation's population. The Agency is working with other Federal agencies, such as the Housing and Urban Development (HUD) and the Center for Disease Control (CDC) to reduce lead exposure.

ENVIRONMENTAL EDUCATION

The President's budget provides increased resources for our recently established Environmental Education Office. This office will cooperate with many others in government and the private sector. The primary focus of this initiative will be to improve science literacy as the core for environmental education for elementary and secondary schools. I hear frequently from teachers that when children are introduced to environmental implications of the sciences—when they are asked to measure the acid in rain or the fecal coliform in a river—they often develop new enthusiasm for science. EPA's new office will foster this connection.

The Agency's program aims to raise the level of environmental literacy and to equip students to serve the environmental cause. Although the resources for this area rise significantly in percentage terms, this effort is a good example of a relatively small investment that we expect will provide future payoffs in terms of environmental protection.

FOOD SAFETY

The President's budget includes increases to ensure the Nation's food supply is safer. Today, the United States' food supply is among the safest of any country in the world. Yet because of heightened public concern over food safety, increased Congressional interest, and the President's food safety initiative of 1989, the Agency has taken several steps to strengthen its food safety programs. These include: additional public outreach and communications regarding registration and tolerance decisions; accelerated review of applications for new and new-use pesticide registrations; and increased interagency research to determine how agricultural chemical practices contaminate ground and surface water, and to identify possible water quality and ecological mitigation methods. Last year, for example, a survey of wells nationwide revealed that 10 percent of the Nation's community drinking water wells and 4 percent of the rural domestic drinking water wells have detectable residues of at least one pesticide. We are using this information to evaluate regulatory and state-specific approaches to protect drinking water from pesticide pollution. Taken together, these programs will continue to establish the U.S. government as a world leader in food safety and human health issues and will also look after our groundwater.

IMPROVED DECISIONMAKING THROUGH BETTER SCIENCE AND BETTER ECONOMICS

To provide more lasting and effective solutions to today's complex environmental problems requires a broader base of knowledge and more sophisticated analyses. Better knowledge and analyses can help decision makers anticipate problems, set priorities, and target resources to environmental problems of highest risk. Using a stronger foundation in public policy decisions also requires integrated data systems.

The President's budget will strengthen EPA's research program to ensure that Agency decisions are based on scientifically sound data and analysis. Major increased areas for research include: global climate change, Clean Air Act research, indoor air, electromagnetic radiation, bio-remediation of wastes, assessment of exposures to various pollutants, and neurotoxic and reproductive effects from pollutants. These increases will also ensure that information and analyses in our labs are scientifically sound. The budget will also increase EPA's contribution to Presidential initiatives to strengthen the Nation's scientific and analytical capabilities through improved math and science education and high performance computing.

The President's budget provides increased resources to strengthen the Agency's analytic and economic capabilities. For example, we will be expanding our work on economic impact assessments of new Clean Air Act provisions because of the potentially large costs associated with the Act. In the area of global climate change, we will be undertaking new work aimed at integrating global climate change policies with economic growth objectives. This work will ensure we have the fullest possible understanding of economic impacts before proceeding on international climate change agreements. Finally, we will increase our efforts to design and analyze innovative economic incentives so we may provide guidance to EPA programs in carrying out the President's goal of increased use of flexible, market-based approaches in environmental management.

CONCLUSION

In conclusion, let me say that the EPA budget proposals for 1992 make absolutely clear President Bush's commitment to a better environment. As the President recently stated, "the 1990s must be the decade when we focus our attention on finding the most cost-effective, most efficient ways to promote pollution prevention, to reduce risks to human health and the environment, and to achieve environmentally sound, sustainable economic growth. It can be a new era of environmental stewardship, creating a safer, cleaner, more productive world for ourselves and our children."

This budget request provides the resources and leadership to continue to make progress through the 1990s and into the 21st century.

INTRODUCTION OF ASSOCIATES

Mr. HABICHT. If Madam Chair is interested, I would love to introduce the team that is here with me today, before we begin questions.

Senator MIKULSKI. Thank you.

Mr. HABICHT. On my right is our Assistant Administrator for Administration and Resources Management, who oversees the budget development process, Charlie Grizzle. Dave Ryan is here on my left. He is the Comptroller of the Agency. On my far right is Don Elliott.

Please raise your hand when you are called.

Don is our General Counsel. Tim Atkeson is our Assistant Administrator for International Affairs. John Martin is our inspector general. Erich Bretthauer is our Assistant Administrator for Research and Development. LaJuana Wilcher is our Assistant Administrator for Water Programs. Next to her is Bill Rosenberg, the head of our air and radiation program. Linda Fisher is our Assistant Administrator for Pesticides and Toxic Substances. Don Clay is our Assistant Administrator for Solid Wastes and Emergency Response. Ray Ludwiszewski is our Acting Assistant Administrator for Enforcement.

As you know, Jim Strock has moved out to help the Governor of California create his new environmental protection agency.

Dan Beardsley is our Acting Assistant Administrator for Policy, and Nat Scurry, is the head of our Office of Civil Rights.

We would be delighted to take your questions.

Thank you very much.

RISK REDUCTION

Senator MIKULSKI. As we move along, I would like to focus my questions on the risks associated with the funding.

I would like to compliment Administrator Reilly on his Science Advisory Board. When one looks at the caliber of people who were recruited to function in this capacity, it is indeed an impressive group of people with competence and experience. I read his report and I would really commend it to members of the subcommittee.

It is titled, "Reducing Risks: Setting Priorities and Strategies for Environmental Protection."

It outlines 10 recommendations focused on targeting environmental protection efforts on the basis of opportunities for the greatest risk reduction. Yet very often, because of a variety of authorizations and budget priorities established by the agency, we do not always focus on the greatest risks.

So, we hope that the Agency would use its own Science Advisory Board's report and Senate recommendation as a kind of navigational chart on where they are going to go.

Now, knowing about this advisory group, last year I asked the EPA for a strategic plan to implement these fine recommendations. I have not received that strategic plan and I wonder when I will get it, and how you see your appropriations fitting in with your own science report.

EPA STRATEGIC PLAN

Mr. HABICHT. Absolutely, and we very much appreciate and need your support and the support of your colleagues in this effort to set strategic priorities. As you know, the laws have been passed sort of on an issue-by-issue basis. It is time now for us to step back and look at those priorities.

We definitely intend to have the SAB report serve as a road map and we have been using that and developing office strategic plans. We now have plans from all of our media offices, from the offices represented behind me here. We have beginnings of strategic plans from all of our regional offices as well.

Madam Chair, we have delivered today—and obviously, you have not had time to read it and we know that this is later than desirable—we have delivered to you today a report on our progress with strategic planning, which lays out some of the major priority areas, how we have tried to incorporate these ideas in the 1992 budget. More importantly, it focuses on 1993 and 1994 and how we will take the plans from our various offices and integrate them into a coherent Agency-wide strategy.

The reason that the report is in today is the result of a meeting we had in Baltimore, where all of our managers met together. For the first time, our managers talked not about their own parochial program interests, but about integrating Agency programs. So, as a result of the Baltimore meeting, we developed both a statement of strategic direction that all of our managers agreed to and a plan for the next 2 years.

That is reflected in this report and we would be delighted to spend more time discussing it with you when you have had a chance to review it. It is a commitment. It is definitely a long-term process. It is not something that can be effectively developed in a year or two.

RISK-BASED ASSESSMENT

Senator MIKULSKI. Well, we know that you had the Baltimore meeting February 25, and this report followed it. Let us now talk about the President's budget and your request related to the risk-based assessment.

Certain aspects of your budget do not seem to support the idea of linking risks with resources. I would like clarification. For example, in your testimony, which was quite comprehensive, you went through the appropriate checklist. Then let us get to the dollars.

Nonpoint source activities make up only 6 percent of your water budget. Yet, nonpoint sources pose a greater ecological risk in many ways than point sources, at least, according to the GAO.

You have talked about lead paint and the impact it has on children over a lifetime. Yet, according to what we saw, only $6 million is devoted to lead paint activities. Moreover, the Science Advisory Board talked also about the dangers of exposure to lead paint.

Indoor air makes up less than 3 percent of your total air budget, $14.6 million out of $500 million, yet indoor pollution is one of the four biggest risks to human health, according to the Science Advisory Board.

I could go through each one of those, but I wonder what you would want to comment on.

Mr. HABICHT. Yes, ma'am.

The process, especially now, given the current statutory and political climate, is one in which we do not have the information or the luxury of funding each priority as we see it fits in the risk continuum.

What we think we have done is made enormous progress in these areas. In the area of indoor air, for example, where we do not have a statutory program per se or a lot of statutory requirements that we have in other programs, we have increased our investments in indoor air by 140 percent over the last 2 years. I admit, it was on a small base, but it is becoming a very effective program for developing information. It is not a regulatory program, but it develops good science and information. So, the growth there is substantial.

And in lead, we have had growth over the last 2 years in the order of 50 to 80 percent, I believe. That certainly is an area of risk priority.

NONPOINT-SOURCE POLLUTION

In nonpoint source, you have to look at the trend from the standpoint of the administration. For years, the administration has viewed nonpoint source as strictly a State and local issue. It, in essence, relates to land use planning, which is very much a State and local prerogative. And yet, moving from a base of zero 3 years ago, we requested $15 million last year and $25 million this year. That is substantial growth in terms of our request. I recognize that Congress has wanted us to move faster.

There is a lot that we are doing on nonpoint source, as you well know, related to geographic initiatives such as Chesapeake Bay and such as the Great Lakes. Bill Reilly is going to convene a nonpoint-source pollution forum of industry and Government leaders, to figure out what is the right Federal law in this area.

So, you are going to see a steadily increasing trend of investments over a period of years in nonpoint source.

Another area that the SAB identified is certainly ecological risk. We are having major new investments in research and in geographic initiatives in the global stratospheric and climate area, which was a top priority of the SAB. As you know, our investments have increased by several multiples over the last few years. So now, we have a global budget of over $50 million.

Needless to say, the Clean Air Act is the centerpiece of our program initiatives. Clean air has been an area identified by most experts as both a significant health and ecological risk priority.

So, we have to take this a year at a time. We have to look for progress, maybe not quite as fast as many of us would like, but our thinking is along these lines. We need your help both with the public and with your colleagues to——

LEAD PAINT EXPOSURE

Senator MIKULSKI. Well, I do want to help you. That is why I raised the fact that the budget request for lead paint is only $6 million.

We are about to spend $500 million at HUD dealing with lead in public housing, in which the Federal Government is one of the biggest slum landlords in the country. We are trying to match our resources to performance. Every time we turn around now, everybody is saying, we need more studies and we need them analyzed.

Yet, right now, there are children at Johns Hopkins Hospital in Baltimore on which we are going to spend $8,000 of Medicaid money trying to get the lead out of their bloodstreams. They have irreversible brain damage. When for $10,000, we could probably clean up an apartment in public housing.

We look at your budget for lead paint and it is $6 million. That is pretty skimpy. I could go down item after item after item.

Now, I recognize that you have many new responsibilities that have been given to you by Congress. Our concern, and it is raised by the Science Advisory Board and I would like your candid answer on this: Are we passing too much legislation without really looking at what it is? Are we simply responding to whatever was in 60 Minutes?

Or is it also a culture at EPA that is a reactive approach to these environmental horror stories?

Mr. HABICHT. I would have to say that one of the biggest environmental challenges we face as a society is what I would call balkanization, both balkanization in the executive branch, particularly EPA, and balkanization in Congress where individual groups are looking at specific issues with a fairly narrow focus.

To be effective in protecting the environment, we all need to step back and make sure that the laws that we are passing or the regulations that we are implementing hang together and make sense and do not conflict with each, nor duplicate nor require unnecessary activity.

So, I would say that both the regulation development process and the legislative process would benefit from a strategic view of the kind of things that you and SAB have been talking about. EPA has often been in a reactive position in the past.

I think over the last few years, we have a better sense of how these issues are hanging together. Lead is a good example. We are developing programs that are actually integrated. So, I agree. We all have a lot of work to do. We probably are passing laws in a way that is spending money where, in many cases, it is not doing the most good.

Senator MIKULSKI. We are going to follow the 10-minute rule to make sure everybody gets a chance and then come back to another round. My 10 minutes have expired.

So, Senator Garn, I am going to turn the questioning over to you.

Senator GARN. Thank you, Madam Chair.

Senator MIKULSKI. I have to step out. It is not because I am not interested in you.

Mr. HABICHT. I understand.

LENDER LIABILITY

Senator GARN. In my capacity as ranking on the Banking Committee, obviously, I have been very much involved in the disaster of the S&L crisis. Adding to that is Superfund.

For more than a year, I have tried to separate out the concern over cleaning up of toxic sites under the Superfund, which is not the issue, and the issue of the means of financing Superfund. When we originally passed it, the goal was to try to find the responsible parties. The comment that was always made was, the polluters will pay. I totally agree with that. The people who cause the pollution ought to pay.

The Superfund money that we appropriated is for emergency situations primarily, so that it is not the Government taking on the responsibility, but trying to find those responsible parties. Yet, we are finding interpretations that I think ignore the original intent of the Superfund legislation.

It is not just financial institutions who have had to repossess property. It is also the RTC, which is adding dramatically to their costs, because now they are one of the biggest landlords and owners of property in the country. We are being held responsible, because they have a financial interest. So, I have been trying to get legislation passed that would resolve innocent lenders and the Federal agencies.

I will give you an example of how bad it can become. There is a financial institution in Texas that repossessed a piece of property in 1948 and held it for 3 months before they sold it. That was their interest in it. The people who bought it were not paying the payments. The repossession went through. They went all the way back through that chain, over 40 years and found the lending institution as the responsible party and want them to pay for the cleaning.

I just do not understand that kind of logic. And we are talking about a credit crunch now. I will guarantee you that, one of the problems with RTC getting rid of some of the property and lowering the cost to the taxpayers is because people do not want to buy if there is any suspicion they might be held liable for something they had nothing to do with.

We are also experiencing financial institutions across the board that, if there is even the hint, even the hint of any environmental problem on a site that, they are not going to make loans. So, the property is sitting there. There are examples in my own State.

They repossessed a Toyota dealership, and I find it hard to figure out what kind of businessman could bankrupt a Toyota dealership. [Laughter.]

I do not understand that.

Nevertheless, the bank ends up getting it. Another dealer comes in and buys out the inventory and moves to another site. The bank was stuck with the cleanup costs that is more than the value of the property. Now, I am getting another concern from general liability insurance companies of the same thing.

We have had hearings in the Banking Committee, but is EPA trying to find the polluters and make the polluters pay? Are we finding solutions?

All it seems to me is, with the time we are taking, we are spending more time in legal battles trying to find potentially responsible parties than we are cleaning up the problem.

Are you aware of this growing problem, that it is not an environmental issue; Jake Garn is not wanting to delay clean up at all? We cannot have people who had nothing to do with the pollution having to pay and the additional problems it is causing within our financial system.

Is EPA aware of that and trying to find some solution?

Mr. HABICHT. Very much so, Senator. We are very much aware of your concerns. We are sympathetic with them and, more importantly, we are taking action.

I have been around Superfund. I was at the Justice Department when Superfund was reauthorized and have always been concerned about it in the sense that it could be abused to simply search for the deepest pocket, wherever that person is and however tenuous the relationship is and go after them. I have also been worried about Superfund liability and liability fears potentially driving development away from redeveloping old industrial property and moving development money into developing pristine property.

So, we think it is a real issue. We have developed over the last few months, in fact I drafted last fall, a lender liability rule. It addresses, we think, as far as we can under existing law, very substantially the concerns of the banking community. That rule has been under review within the administration.

The rule was never intended to preclude legislation if it was deemed that the rule itself did not go far enough to deal with this problem. I think it is a legitimate issue to debate. We think you are right in raising this issue to debate. We think the rule goes a long way toward easing some of the concerns that I am familiar with, but legislation still might make sense.

Our concern with regard to lenders is that they not be unduly discouraged; that we not unduly discourage capital flows, but simply that lenders be discouraged from taking action that would worsen or exacerbate a problem at a site.

What you are talking about is not that kind of a situation. We think it is not appropriate for lenders to profit from the cleanup money that might be spent by somebody else in terms of the enhanced value of the property.

Senator GARN. You probably know that my legislation prohibits that.

Mr. HABICHT. I think you deal with that.

So, we are working at it. We hope that the administration can. There is a lot of interest in the administration for dealing with this effectively, while making sure that we continue to move on cleanups and get the job done in Superfund.

Senator GARN. Well, I like the answer, but I am still hearing from the environmental community about how my legislation would create more Love Canals. I really do not know how we could create more sites. Again, it is not my intent.

Literally, the legislation is very narrowly written to talk about innocent lenders, innocent Federal insurance, and so on. I appreciate the answer, but so far nothing has happened. It is building up every day and more and more of a concern.

I just want to emphasize, let us make the polluters pay and not get innocent people involved because of the stifling effects. I cannot sit and listen to testimony about creditors and try to do something about it and then hear that this is an environmental bill. My legislation is not an environmental issue at all. It is trying to put some equity into this and solve some of the financial problems and not add to the costs to the taxpayers in that way.

Last year, when we passed the Clean Air Act, it was often the case we always had to have technical correction bills. With a massive bill of that kind, we often also find that we have unintended results from good purposes.

AVIATION FUEL

I want to know if you are aware of the aviation gasoline problem? If you are not, let me give you a little background.

We have a difficult situation in the transition over the years from piston aircraft to jet engines. There is no problem with jet fuel. We have a dramatically shrinking general aviation industry in this country primarily because of product liability; 10 years ago, we manufactured 20,000 general aviation aircraft in this country. These were the small ones, the piston engines. In 1990, we manufactured 1,300.

Now, refiners are only continuing to make aviation gas as more of a courtesy than anything else. It is not much of a profit. It is such a small amount of what they refine that it is very expensive and it creates a difficult problem.

There are provisions in the Clean Air Act that I think could potentially eliminate aviation gasoline, 100 octane, low lead and all of that, and kill the rest of what is a dramatically reducing industry in this country. I have no aviation manufacturers in Utah. Most of them are in Kansas, Florida, or some place. There is no parochial interest in that way.

Are you aware of the potential, because of the costs and the refiners saying, we simply cannot afford to do that, because this is a very small part of the gasoline market?

Mr. HABICHT. I am aware of the problem. I have only recently become aware of the issue. I am certainly aware of the sector. My father was a private pilot for over 40 years. So, I certainly have a place in my heart for piston-driven aircraft.

Let me ask Bill Rosenberg. As I said, I am aware of the issue. I am not aware of where it stands in terms of the review of it.

[The information follows:]

CAA ON PISTON-DRIVEN AIRPLANE INDUSTRY

Section 220 of the 1990 Clean Air Act amends section 211 of the act to ban leaded gasoline for highway vehicles after December 31,1995. EPA has no plans to ban the

use for aviation purposes. Representatives of at least one supplier of aviation gasoline have publicly stated that they will continue to supply the aviation market with high-octane gasoline.

Senator GARN. Well, I certainly hope you look into it, because I do not think any Member of Congress intended that the Clean Air Act affect this very small segment. I mean, you are not just talking about the private pilots.

Mr. HABICHT. Right; I understand.

Senator GARN. You are talking about Cessna 421's, and the whole thing is, it is a big means of transportation for a lot of people in business in this country. It certainly is not a large polluting factor in any event, but we have got to look at some of these unintended consequences and not wipe out an entire industry in this country that has already been largely gutted.

Let me ask you another question on storm water discharge permits.

STORM WATER PERMITS

You may or may not know that, before I came to the Senate, I was the mayor of Salt Lake City, so I am particularly concerned about some of the responses of local government. Just this week, the National League of Cities has been in. I assume that every Member of Congress has been contacted.

They are very surprised by the March 18 deadline. Virtually universally they feel that they cannot meet that application deadline and are suggesting a 6-month delay for them to comply.

Are you aware of their concerns? Again, this is across the country from virtually every mayor I have talked to in the last week. So, it is not a local issue as far as my State. It is all across the country. Are you aware of that issue and whether or not there is any possibility of giving them 6 months in order to come up with an application?

Mr. HABICHT. Senator, LaJuana Wilcher and I have spent quite a bit of time on the storm water issue. As you know, EPA has been working for literally years to find a way to implement in as rational and nonintrusive a manner as possible, particularly when you are dealing with small municipalities, and smaller businesses, and so forth.

Senator GARN. What it is, the smaller communities are having the most difficulty by far.

Mr. HABICHT. Right.

We have had to move forward under court orders and other means. What we are trying to do is get small entities to consolidate, to pool their resources, and cooperate to minimize the cost and to make this as clear as possible.

We just recently became aware of this problem. We have certainly heard from the cities and others about this issue and we are looking at what kind of extension we have the legal authority to grant, that is both consistent with the law and moving forward with this, without causing these dislocations. We are close to being able to determine how much we can do. We are certainly aware of the stated need for an additional 6 months, and we are seeing if we can do that within our administrative authority.

[The information follows:]

STORM WATER DISCHARGE PERMIT DEADLINE EXTENSION

On March 21, 1991, in a final rulemaking, EPA extended the regulatory deadline for part 1 of the group application until September 18, 1991, and established a fixed regulatory deadline of May 18, 1992, for part 2 of the group application. Also on March 21, EPA proposed to extend the regulatory deadline for individual permit applications for industrial storm water from November 18, 1991, to May 18, 1992.

Senator GARN. Well, there is a possibility of a request coming up to us and us doing it legislatively or supplementally, if you do not feel you have the ability to do it administratively. I am convinced that, because of the large response from every section of this country that a 6-month delay is needed.

Thank you, Madam Chair.

Senator MIKULSKI. Senator Fowler.

WATER USE EFFICIENCY

Senator FOWLER. I have two or three topics here. One is water and one is wood. I will try to be very specific.

Congress enacted last year or the year before, included $500,000 in your budget for matching grants, I think, it is to fund your water use efficiency task force. It was for matching grants for water conservation projects.

I just got a report from that that really surprised me because of the number of projects, proposals that were submitted, over 120. All over the country, local governments, Federal agencies, national organizations were requesting up to a total of $6 million in assistance. There is obviously a great interest in water conservation practices. I do believe the EPA is in the best position to take the lead.

How do we do that?

Another proposal that we have been urging on you is an office of water conservation within EPA to handle this growing demand and need. Do you think the Agency is prepared to support that concept by now?

WATER CONSERVATION

Mr. HABICHT. Well, Senator, first of all, we agree completely that, as part of pollution prevention and the long-term strategy for dealing with water issues, efficient use and conservation is critical.

Senator FOWLER. What about the department?

Mr. HABICHT. Our Office of Pollution Prevention has water conservation as one of its mandates working with our Office of Water. I think we have an efficiency task force that is both playing off your leadership in this area as well as working with water utilities and user groups and industry.

We would be happy to consider the notion of an office.

Senator FOWLER. I wish you would think seriously about it. We have urged this before. I think we have now got to the proof in the pudding that, water conservation in almost every State in the United States—Georgia is no exception. It is led from California, that may have to import water from Canada in the next 6 months by tanker.

I just think it is a great opportunity for your agency to assume a leadership role. I know you have been studying the developing water use efficiency policy over the past few years. We have not forgotten that yet. What is the delay on that policy? When are we going to get the results of your study?

Mr. HABICHT. Do you know when we will have that?

Ms. WILCHER. No; I do not, but we can find out.

Mr. HABICHT. We will let you know.

Senator FOWLER. Let us go to wetlands.

I would like a full report just as soon as possible today, thank you.

Mr. HABICHT. We will be glad to do that.

[The information follows:]

WATER CONSERVATION USE EFFICIENCY STUDY

The Agency has developed a draft national policy to promote efficient water use. We are now reviewing the scope and coverage of this draft policy, attempting to come to closure on the details and considering whether a policy statement is the most effective vehicle in advancing these interests. We expect to make decisions on the appropriate role of the policy within the next month. We are also undertaking a number of related activities, including a water conservation incentives study to examine the effectiveness of water conservation programs in addressing water and wastewater utility needs. This report is expected in May 1991.

WETLANDS DELINEATION MANUAL REVISION

Senator FOWLER. On wetlands, I do not have to give any prefatory remarks. The most famous book since "Lady Chatterley," I guess, is your manual that designates 80 percent, or up to 80 percent, of the coastal lands in Georgia and South Carolina and Florida as wetlands. We were supposed to get a revision of that, my understanding is last month. What is the status? When are we going to get it?

Most importantly, though, I assume technically you are not required to open your revisions to the public review process. I hope you will tell me right now when I ask you specifically that, because of the controversy of your earlier efforts, you will open your revisions to public review, the public comment process.

Mr. HABICHT. Senator, we very much do intend this to be an open public process where we get both the concerned landowners involved as well as the scientific and technical experts around the country. I always look on the bright side of developments. Wetlands is certainly one of those issues which, as they say, is why we get paid all this money in Government to deal with tough issues like this.

We have learned a lot. I think this is a good lesson on how the environment impacts individuals and environmental protection programs impact individuals. We have the President having set the pole star force of no net loss. Now we need to orient the regulatory programs in a way that is publicly acceptable, that makes sure we are addressing priority ecological needs, but does it in a way that has as much consensus and public support as possible.

So, revision of the Delineation Manual is something we have spent a lot of time on.

Senator FOWLER. When are we going to get it?

Ms. WILCHER. Perhaps, I can address that just briefly, because I know it is something that is of interest to a lot of you as it is to us.

Senator MIKULSKI. Ms. Wilcher.

Ms. WILCHER. Yes, ma'am?

Senator MIKULSKI. If you would use the microphone, it helps the committee reporter who is taking the minutes of the deposition or transcript, depending on how you look at it. [Laughter.]

Ms. WILCHER. The Delineation Manual is being revised and we would like to have revisions completed some time within this month or early next month. The reasons for the delays are simply that we have four different agencies that ultimately must agree on the document. We have scientists in those four agencies and we have policy people.

Senator FOWLER. But you expect it no later than, say, April 15?

Ms. WILCHER. Yes, sir.

Senator FOWLER. And you are committed to submit the revisions to public review and Congress?

Ms. WILCHER. Yes; we are.

Senator FOWLER. Have your field offices been given any interim instructions on aiding and economic development and planning in these coastal areas while everything else has been stopped?

Ms. WILCHER. I am sorry, I did not understand your question.

Senator FOWLER. Have there been any instructions to your field office to help those, to help States and localities continue ongoing economic development plans and working with landowners while we are awaiting this second revision?

Ms. WILCHER. We have not given guidance over the last year and a half since it has become very evident the Delineation Manual had its problems. The Corps of Engineers did a regulatory guidance letter specifically for prior converted farmlands. We are working with States and localities of region IV on advanced identifications of wetlands.

Senator FOWLER. Just in case the delay goes by April 15 again, I hope you look at that again to make sure that the field offices are implementing those suggestions.

Ms. WILCHER. We will.

I would like to point out that, in terms of public process, the point that we are to date has been very directed by public process. Starting last summer, we held a series of four public hearings throughout the country, in Baton Rouge, Sacramento, Baltimore, and St. Paul/Minneapolis.

We published the notice in the Federal Register that we would be making changes to the Delineation Manual. We received over 500 written comments, which are being evaluated.

We do intend again to publish in the Federal Register the changes that would be made and take public comment on those. We have not determined whether it will be a formal Administrative Procedure Act process or whether we would do a notice and some type of comment. But all the agencies have committed to do that.

Senator FOWLER. Well, I appreciate that very much, but after that public relations testimony, may I say to you that if you had done that before, you would have released the manual. Then untold man/woman years that I see you now measure your budget in could have been saved, because the public comment that would have come in would have helped tremendously in showing how we could protect the environment without going across the line to something that would cause the classify of soil that is obviously not a wetland.

Ms. WILCHER. We agree with you, Senator.

Senator FOWLER. Thank you.

Madam Chairman, if I can just take one more very important issue.

Senator MIKULSKI. Yes.

WOOD-PRESERVING REGULATION

Senator FOWLER. Over the last couple of years, I have taken a strong personal interest in the wood-preserving industry and the problems for several reasons. No. 1 is because it had a very bad environmental record. Since Georgia, my State, is one of the national leaders, over 50 wood-processing facilities, we had to figure out what to do about it in order to protect and help the environment, but also not to kill unnecessarily a necessary industry.

I noted with satisfaction, in your book, in your written and your oral testimony, the approach in almost every one of your divisions and policies of the multistatute, multimedia approach that you are now adopting and bragging about that, the only place you have not done it is in the problems of the wood-preserving industry.

They have been advocating that for the last 2 years. They have adopted all sorts of—they are retrofitting as fast as they can. Why have you chosen only that industry, seemingly, not to adopt the multistatute approach?

I wrote in the language last year, the second year, since there was no satisfaction after the first year. You have a report due the day after tomorrow. I would love for you to give me a preview of coming attractions like they say in movies. But if what I am about to hear is not to my liking, you have got 2 days to adopt your multistatute approach, like you have in every other program.

What do you say about that?

Mr. HABICHT. Well, Senator, this is another issue on which a number of us have spent a lot of time, because of the interest and because of the nature of the industry. It is much like wetlands. We wanted to be sure that we really thought through both what is needed for the environment and what will have the least adverse impact on the affected industry in looking at the law.

We take a multimedia approach. What we try to do in the most straightforward and uncomplicated way possible, is to address whatever the range of multimedia problems is from a particular industry or facility. Sometimes, that might mean using a number of statutes. Sometimes, you may be able to do that with one statute.

We have looked at some length at the proposed multistatute approach, which is innovative, but as we will lay out in more detail, presents a number of logistical and enforcement and complex problems that were of concern. We thought that we have developed an approach under the Resource Conservation Recovery Act, which encourages what is happening in the industry.

The industry has been doing a very good job by and large in developing a closed-loop approach, where they have a system where the chemicals of concern do not find their way out of the system. To the extent companies do that, they are in good shape.

Senator FOWLER. Here is the box. I beg my colleagues' indulgence for just a moment. Here is the box.

If you are going to tell me that the retro-only approach that you are going to take, the retro-only approach because you find that satisfactory, you are not using your multistats report, then surely you have to get some time to do the retrofit. You cannot seriously think of getting this done by June 6, I think is the day. It is 6 months that you are getting. It seems that you have got a total catch 22.

If you want to close down the industry then fine. What we have done is identify an industry that admitted there are serious environmental problems. They submitted a plan that they would adhere to. You tightened it up. I had no problem with that from a public policy perspective. I am urging you and I want you to do it. I do not want to have to do it, if I can, through report language or legislation.

To recognize the fact that we have an essential industry here. They are not making bombs; they are preserving wood. Either you revise the plan that you are telling me—listen very carefully; you are not going to do that. I hope that you will tell me right now that you can get it.

I ought to get an extra 12 months in my opinion, but if we have to split the difference over 6 months, or else these people, we are going to close them down. What can we do about that? Can you tell me that you will let me know within 48 hours so we do not have to go back the third year legislatively?

EPA COMMUNICATION WITH INDUSTRY

Mr. HABICHT. Well, we have to get back to you in 48 hours.

I would just add to that, that we are very sensitive. We are at a time now when I think EPA, operating in the open, can talk much more freely and needs to talk much more with affected industries. There was a period in the past when it was viewed as taboo even to talk to industry. We just wrote our regulations and we worried about what the practical industry problems were.

We spent a lot of time with this industry. We are happy to spend more time understanding their practical problems and we will be happy to get back to you in 48 hours.

I was going to mention to the chairman that, we have been doing this with the lead industry as well, because the lead industry is also concerned that we are out to put them out of business. In all of these cases, they are very essential functions that are served by these industries.

What we want to do is to put the wind at the backs of efforts in both of these as well as other industries voluntarily to reduce their wastes and clean up their act, as it were, and to applaud that and promote it wherever we can.

Senator FOWLER. Well, in conclusion, again, I thank everybody.

I accept that from you, Mr. Deputy Administrator, that approach. I know there has been, in some cases, very good public policy written where I understand you do not talk to industry. In this case, I happen to know, if we are going to improve, there has to be some consultation. I happen to know that the industry was not consulted on the compliance and the time it would take to turn these around under the most optimistic of circumstances. Not only do you have the industry, you have State and local regulations, too.

So, if you would let me know as quickly as possible. I am going to have to act one way or another if we cannot get an extension of that.

[The information follows:]

WOOD PRESERVING

EPA is sensitive to the concerns of the wood-preserving industry with respect to the June 1991 compliance deadline. In response to the request that EPA provide, within 48 hours, the status of their deliberations, the March 15 letter from EPA Assistant Administrator Don R. Clay to Senator Fowler is attached.

[The letter follows:]

LETTER FROM DON R. CLAY

MAR 15 1991

Honorable Wyche Fowler, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Fowler:

I can assure you that EPA is, and has been, committed to working with the wood preserving industry to understand their concerns about the recently promulgated hazardous waste rules that affect the industry. We will do the best we can to address the industry concerns consistent with our responsibilities to protect the environment and to see that our actions are based on a defensible record.

On December 31, 1991, the American Wood Preservers Institute (AWPI) wrote to William K. Reilly raising six issues with the rule. During January 1991, there were several telephone calls between EPA and AWPI staff. Then, on February 14, 1991, several EPA staff met with AWPI representatives regarding these issues. As I understand the meeting, EPA agreed to immediately explore the two most pressing issues and explained that more information was needed from the industry.

The most pressing issue appears to be extension of the June 1991 compliance date. It may be possible by rule to postpone that compliance date if there is a record to support such an extension. We will examine the data we receive and consider a range of options. Three options that will be considered are: (1) an extension of the compliance date by rule for all or for some category of facilities; (2) schedules in compliance orders for individual facilities; and, (3) some form of site-specific extension of the compliance date if we have a legal means to do so. We are committed to working out a reasonable and equitable resolution assuming, of course, we obtain an adequate record to support any of these actions.

AWPI agreed to provide information to EPA the week of March 18, 1991 with a plan for EPA to meet with the AWPI to further discuss the issues the week of March 25, 1991. Today I received a letter from AWPI transmitting some or all of that information. It appears that attachments to that letter may provide a basis for evaluating what sort of extension may be needed. We will examine that information closely to determine if an extension is appropriate and if so for what period of time.

We have been taking the industry's concerns very seriously. While we concluded the RCRA listing was preferable to the industry's proposed "multi-statute" approach, I believe our sensitivity to the specifics of this industry is demonstrated in the RCRA final rule. That rule has some significant elements that ease the implementation costs of the rule, such as provision for 90-day generator status which makes it possible to operate without obtaining a full RCRA permit. Because of that provision, wood preserving facilities will not automatically be subject to requirements to inspect the full facility and required to clean-up all significant past contamination.

I hope this letter reassures you of our commitment to working with the industry on this matter. We are conscious of the June 6 effective date and the understandable desire of members of the industry to know as soon as possible if there will be an extension of the compliance date. We at EPA will work expeditiously to resolve this issue.

Sincerely yours,

Don R. Clay
Assistant Administrator

Mr. HABICHT. With your indulgence, Don Clay, the Assistant Administrator who spent a lot of time on this might have just a word to add on this.

Mr. CLAY. Yes.

I want to add a little about the meeting. The rule, as you know, was signed on December 6. On December 31, the industry wrote a letter to Mr. Reilly asking for a stay of the June 6 date. In the middle of February, there was a meeting between EPA staff and the industry.

At that time, they indicated that they would have more data back to us about the hardship aspect. That data, they said they would have during the week of March 18. We agreed to meet with them again by the end of March to see what we thought about the data. So, their request for more time or staying the June 6 date is still very active. We have met with them. They were to provide more data. That has yet to come.

Senator FOWLER. Thank you, Madam Chair.

Senator MIKULSKI. Senator D'Amato.

LONG ISLAND SOUND OFFICE LOCATION

Senator D'AMATO. Madam Chairman, I intend to be very brief, and if I can yield the balance of my time to my colleague, who has been waiting patiently.

Mr. Deputy Administrator, last year Congress passed the Long Island Sound Protection Act and that legislation required the EPA to establish a Long Island Sound program office on or near the sound. Now, we have been informed that, due to the great interest of New Yorkers, which you know what that means, EPA will be publishing an RFP to allow the interested parties to apply for the opportunity to have program members. It was supposedly going to be done in early March. Now, it has not been done. Time is slipping.

When is that going to be done? Are you going to do like Solomon and split the baby and probably put one in Long Island where it should be and one in Connecticut where it should be? When are you going to put this RFP out?

Mr. HABICHT. Senator, what we are going to do is a much more truncated process than the usual RFP process and we will simply get information from the interested parties and work that through in a very short timeframe.

We think we are still on track to having the office or offices ready to go by June.

Senator D'AMATO. It was April. Now, you have flipped to June.

Mr. HABICHT. We hope before June, but that is a date that we believe we can meet. We try to make commitments that we believe we can meet.

Senator D'AMATO. So, it is no more RFP? You are going to truncate this and you are going to say what? New York, what will you propose and Connecticut, what do you propose; is that it essentially?

Mr. HABICHT. In essence; yes.

If we can just get some basic facts——

Senator D'AMATO. When are you going to do that?

Mr. GRIZZLE. We expect it to go out in the next couple of weeks, Senator. We are calling it a request for information. So, rather than have——

Senator D'AMATO. You do not want the Italian hound dog on you every day, do you?

Mr. GRIZZLE. Not at all.

Senator D'AMATO. Are you going to tell me 2 weeks?

Mr. GRIZZLE. We think we can have the request for information out in a couple of weeks. So, we will be on track, as Mr. Habicht said, to have the office or offices ready for opening in June.

Senator D'AMATO. And you are going to send one to New York and one to Connecticut?

Mr. GRIZZLE. We intend to send it to several hundred interested parties.

Senator D'AMATO. Who is several hundred? Come on, let us stop. You have the State of New York and you have the State of Connecticut. Do you have anybody else? Do you have Alaska interested in this? Are you monitoring the Long Island Sound?

Mr. HABICHT. It is communities, is it not?

Mr. GRIZZLE. Yes.

Mr. HABICHT. It is not just the State. There are several communities that are representing themselves.

Senator D'AMATO. Are you going to send them to the State EPA's, the environmental protection agencies?

Mr. HABICHT. Yes, sir.

Senator D'AMATO. Would you please keep our office informed?

Mr. HABICHT. Yes, sir.

Senator D'AMATO. As to when?

[The information follows:]

LONG ISLAND SOUND OFFICE LOCATION

The letter of inquiry went out on March 29, 1991, under signature of Rich Lemley, Director of EPA Headquarters Facilities Management Division. Responses must be received in the region I office by April 19, 1991, with selection expected in late May and startup for the office in June 1991.

Senator D'AMATO. You do not have to tell me what it is going to be, because you are going to have one from Long Island and one from Connecticut. That is a fact. You know that. There will be someone in some committee who will put something in it, so let us get to it, OK.

Mr. GRIZZLE. Yes, sir.

Mr. HABICHT. We want to get it off the ground.

Senator D'AMATO. Great. Thank you.

Madam Chair, I yield back to the panel.

Senator BOND [presiding]. Senator Kerrey.

Senator KERREY. I have a statement I am going to submit for the record and some detailed questions.

BYERS WAREHOUSE

Senator BOND. Thank you, Mr. Chairman.

We may be breaking this up into a couple of parts. I did not want to get started because we have a matter of long-simmering discussion between the EPA and my office. I beg the committee's indulgence if I discuss it, because it does raise in my mind some questions about the management of the Agency.

Mr. Chairman, the issue at hand is the Byers warehouse, located in St. Joseph, MO.

In 1979, EPA canceled the registrations for several pesticides, including 245T, because they were found to be contaminated with dioxin.

You began a process of recalling and disposing of these pesticides from around the country. I understand that all of the other pesticides outside of the Byers warehouse have been gathered and put in properly permitted facilities; is that correct?

Mr. HABICHT. That is my understanding.

Senator BOND. In 1986, a warehouse full of these recalled pesticides was accidentally discovered in St. Joseph, MO. They were owned at the time by Union Carbide. The EPA subsequently took title to the materials. They have been stored there ever since. There was a fire there and the impact of the fire led to the identification of the dangerous nature of these materials.

I would like to go through a series of questions with you, Mr. Habicht.

First, is this warehouse a properly licensed and permitted storage facility?

Mr. HABICHT. Senator, it is a facility that is safe because of EPA oversight. It is not properly licensed for storage because we think there may only be one facility that is permitted because of State concerns about the material.

Senator BOND. Under what standard would you consider it safe? It does not meet any of the permanent storage standards. There is no fencing around it. Have you made a personal judgment that it is not dangerous to have this material in the Byers warehouse in St. Joseph?

Mr. HABICHT. I am not a scientist or engineer myself, Senator. Our staff, both at the region and our headquarters staff has spent a lot of time making sure that the materials, both the liquids and the solids, have been packed in safe containers. The facility is inspected, as I understand it, twice a week by Federal officials as well as having other security provisions in place.

BYERS WAREHOUSE—SAFETY ISSUES

Senator BOND. I understand.

I am not a scientist either, and I do not have the technical background.

So, if you will bear with me, I will quote from a December 15, 1987, memo from the region VII of the Environmental Protection Agency. On page 2 of that memo and I quote:

> Byers is an old, two-story brick building with a full basement. The roof has been plagued with leaks and the floors are in poor shape. On one occasion an Environmental Protection Agency technical assistance team investigator fell through a floor passageway that was covered with plywood. The basement contains standing water which rises and falls along with the groundwater levels, indicating a connection between the basement and the groundwater. The building contains a fire protection sprinkler system, but the system has not been operational since at least 1983. In the past, Byers has been the target of vandals and burglars.

That is the end of that quote.

I would note that the water in the basement has been pumped out and the material has been moved to the first floor.

But moving over to page 3 of the memo, at the bottom of the page, the last paragraph says:

> There is an ever-present threat of fire at the old warehouse and, as mentioned earlier, the fire protection sprinkler system is nonoperational. The burning of the T material would most likely create toxic gases and smoke which could contaminate a large portion of the populated area around the warehouse. Also, the threat of fire is increased by the presence of the automobile upholstery shop in the adjacent building and reduced security. Safety data sheets on the T wastes indicate that poisonous gases will be produced in the event of fire.
>
> Additionally, a literature search indicated the burning of the T wastes would create hydrochloric acid, diabenzofurans, TCDD dioxin and phosgene.

Beyond that, is it not true that the warehouse is also in a flood plain?

Mr. HABICHT. I do not know that myself, but we can certainly find out.

Senator BOND. Well, I have checked on the flood plain. Unfortunately, in 1984, the warehouse was flooded and it may only be a 100-year flood, but, frankly, we are beginning to wonder about whether this will be removed and whether it will be removed before the next 100-year flood.

In the event of a fire, any firefighting water would compound contamination through surface runoff and migration of the contamination to the groundwater aquifer.

There seems to be a connection between the standing water in the basement of the building and the groundwater. The memo goes on to say why and then on page 5, under paragraph B, the conclusion about the connection with the groundwater is that:

> The change in the water level in the basement would indicate that if contamination of the groundwater has not yet occurred, it is just a matter of time.

Mr. Habicht, why have they not been moved?

245T REMOVAL

Mr. HABICHT. Senator, if I could tell you what has happened since I became involved in this issue, maybe it will shed some light on your concerns here. I appreciate your concerns. We have had a number of discussions about it. If you are concerned and your constituents are concerned, we are concerned.

That 1987 letter was written at the time, as you may recall, when EPA was in the process of successfully incinerating dioxin-contaminated wastes from Superfund sites in many parts of Missouri. We had appealed to the State to give us the permission at that time, which was before my time at EPA, to simply use the successful mobile incineration process that has proven successful at these Superfunds sites and take this additional waste at the warehouse and get rid of it once and for all.

As you know, public concern, for some of which EPA bears some responsibility about dioxin but for which there is excess public concern, has led to great difficulty in setting facilities to deal with these issues. We had hoped that the State would allow us simply to continue what we were doing and get rid of this once and for all. Well, in 1989, the State denied us the permission to do that. We added whatever additional safeguards we felt were necessary as a holding action.

I became involved in this, as you know, last spring. Since that time I have done two things. First of all, from a management standpoint I have required that we identify what destruction technologies and potential facilities for destruction are available and to do anything we could to accelerate that.

As you know, identification of destructive technologies is not directly EPA's responsibility. It is technically the responsibility of the registrant of these materials to find destruction facilities, but there are none. So, we have had to work on that.

We have made some progress on that front. There may be an incinerator or two that could be available to incinerate dioxin-contaminated waters.

Our Office of Research and Development, following upon their success with bioremediation, is developing a technology that would strip the chlordane out of dioxin wastes and render it much less hazardous. Those technologies may not move quickly enough.

So, in order to be sure we quickly address your concerns—although the redtape is a problem—the reason we did not do an RFP for Long Island Sound is because RFP's do take a long time. Sometimes, you have to use that procedure.

In this case, we commenced with an RFP procedure, which is what we had to do to find out if there were any qualified people and facilities to take this waste. That process ran its course finally earlier this year. While I am not at liberty publicly to divulge the bids, there is one bid that we have, and as far as we know, it is the one facility in the country that can take this. They are asking for a lot of money, quite a bit more than it is costing the taxpayers to deal with it here.

Nonetheless, we are going to look as favorably as we possibly can on this. We have some disposal money this year. In 1991 it expires and we do not have the money to pay for it next year, but we are looking at that.

We are prepared to move the liquid portion of these wastes, which naturally would be more of a concern than the solid wastes which are, in essence, a granular material that is just coated with dioxin. The solid materials, as you know, are not solid dioxin. They simply have dioxin residues. But we would be prepared right away to move the liquids and we are looking as fast as we can at the solid wastes to see whether logistically, legally, and financially it can be done.

These kind of things happen when redtape becomes a problem and things do not move as quickly as citizens would like. I understand that affects the citizens' views of Government. That is why Bill Reilly and I take issues like this so very seriously.

Senator BOND. We worked together very well last year and I thought we were going to get some progress. I thought this was going to be resolved last year. The reason I am questioning you about this is that it was discovered in 1986. We started the process in 1987. The process went on all through last year.

There are a couple of points that I think deserve to be responded to.

The incinerator agreement between the EPA and the DNR in southwest Missouri provided that it would only burn dioxin wastes for southwest Missouri. That was agreed to at the time with the counties involved, rightly or wrongly. They simply held EPA and the DNR to their word.

Second, you mentioned the solid facilities. While it may be heat absorbing or retardant, it does not retard flames. It is not a prevention against fire.

Finally, you are telling us that you would rather spend the money elsewhere and you do not have money in the coming budget. To my knowledge, you have never told me that there was a shortage of money. I do not know of any record of your asking this committee for the money to provide for the storage of this material in a proper, permanent facility. Frankly, I do not think the law allows EPA the luxury of saying, "Well, we think we will turn down the bid or we will not go after the money, because we just do not feel like moving it." There has been no evidence, no one told me that you were short of money.

If you are short of money, tell us how much you need.

FINANCING OF DISPOSAL

Mr. HABICHT. Well, we will when we have scrubbed this bid, which will be within the next few days.

The reason there was nothing in the budget for next year was because we just got the proposals in from the bidders through this process in the last couple of months. There was not time to put money in the budget. As far as we knew and based on the information we had, it would not cost as much as this bid indicates that it will cost. Now, that we have that information, needless to say, we will want to interact through this committee in a way that will allow us to figure out what to do.

Senator BOND. Well, the first proposals came in last fall. I think this is a heck of a good time to ask for additional money if you need it.

Finally, I would just like to know when we can tell the citizens of St. Joe a final decision will be made on this proposal.

Mr. HABICHT. Let me get you a detailed status report on where we are by next week.

As I said, I am willing to say now that we are willing to move the liquids. We need to look at the quality of the bid as it relates to the higher volume and cost of the granular material. We have a responsibility to do an analysis of the costs and the tradeoffs. I think we will be able to give you a good report on that next week.

Senator BOND. Next week, you will tell us when you will act and what you will do?

Mr. HABICHT. Yes.

[The information follows:]

2,4,5-T/SILVEX REMOVAL FROM BYERS WAREHOUSE

The Agency is currently storing 2,4,5-T/Silvex pesticides at Byers Warehouse in St. Joseph, Missouri. The Agency's preference for removal of the T/Silvex stocks is to move directly to permanent disposal. Consequently, the EPA Office of Pesticides and Toxic Substances [OPTS] is actively exploring several options for final disposal of these stocks.

At the same time, OPTS is proceeding toward award of a contract for interim storage of the stocks now at Byers in a RCRA permitted facility. In November 1990, the Agency issued a solicitation for bids for storage. The bids were received in December 1990. The technical review of those bids has been completed and final contract negotiations are underway.

In order to fully explore all storage and disposal options prior to a decision on the storage contract award, the Agency has asked bidders to extend the validity of their bids to September 30, 1991. All technically acceptable bidders have so agreed. This extension allows full exploration of the disposal options while reserving sufficient time to award a storage contract, if necessary, and move the Byers stocks by the end of this calendar year.

Senator BOND. And I will point out that, the statute does not differentiate between the kinds of material, liquid or solid.

Mr. HABICHT. I understand that, Senator.

We are trying to make judgments. Several million dollars is a whole program to us and that is simply why we take it seriously. But we take, as I said, your concern seriously. If the amount of time spent at high levels of EPA is indication, you can be sure that the citizens of St. Joseph have gotten a lot of attention over the last few months.

Senator BOND. Thank you, sir. I would like to submit a question for the record. Thank you for your indulgence.

STATE GRANT FUNDING

Senator KERREY. Correct me if my perception of your budget is wrong. It seems to me what you are doing is you are putting a great deal of new money into clean air and you are cutting or, at least, not putting any new money into water. Is that a fair statement? Are the bulk of your new resources going into clean air work?

Mr. HABICHT. Senator, the bulk of new resources this year is going into clean air work. We had some significantly new resources in water, particularly in the area of geographic initiatives and we have made some reinvestments in the water area to focus on higher priorities. But in a limited budget climate, the Air Act and the air environmental priorities were the ones that got more attention this particular year.

Senator KERREY. You said a number of times in your testimony that you would like Congress to help you; is that correct?

Mr. HABICHT. That is correct.

Senator KERREY. It is curious to me that you are asking Congress to help you. I think Senator Garn indicated that the mayors are in town. We have heard from them, but in addition to mayors, we heard from county and from State officials. EPA tops the list of most mentioned agencies where they want help, where they are asking for help.

As you know, there are many issues—landfills, solid waste. Those concerns are at the top of the list for cities, counties and States that do not even have a high percentage of small, developing communities like we do.

As I look at the budget, I see you making fairly substantial cuts in grants to States for things that are relatively popular. And you are doing something rather unusual and that is, actually earmarking yourself. I do not have to tell you that, when somebody in the Congress does an earmark, you will immediately say that you do not like earmarking.

But you have earmarked under the construction grant program, I believe, four items. At the top of the list, of course, is the Boston Harbor. I think we know why that one is earmarked. But can you provide me with a rationale for the other earmarks that I could use when I talk to city, county, and State people back home. What was the rationale that allowed OMB to give you the permission to earmark these projects?

Mr. HABICHT. Well, Senator, for the cities that you are referring to, which include New York, Los Angeles, San Diego, Boston, and Seattle, as well as earmarked for Tijuana, for the U.S. coastal cities, the thought process is as follows. We are focusing on, as one of the major—

Senator KERREY. Excuse me.

The staff tells me that OMB requested that earmark; is that correct?

Mr. HABICHT. That is something that we worked through with OMB, but they initiated it based on——

Senator KERREY. So, the answer is, yes; OMB requested the earmarking? [Laughter.]

Mr. HABICHT. Initially, that is right and we agreed to it.

Senator KERREY. So, the answer I am actually looking for is, what was OMB's rationale for requesting the earmark?

CONSTRUCTION GRANTS EARMARK

Mr. HABICHT. Well, I can give you our rationale for agreeing to it, Senator, and they may have more light to shed on their own thinking.

From the standpoint of our looking at it and the standpoint of the priority areas that we are focusing on, particularly coastal areas as well as some inland fresh water areas, present some significant ecological threats that require integration and planning. A report by the National Oceanic and Atmospheric Administration, indicated that some of these areas, particularly off the shore of some major cities, had threats to the ecology that are fairly significant.

Senator KERREY. Again, back to what Madam Chair said in the beginning. In your statement you said that we should help you with the risk analysis. Did you integrate this earmark with some sort of risk analysis? I hear you citing one particular report. Did you factor this into some sort of risk analysis and say to OMB those either conform to that analysis or they don't?

Mr. HABICHT. There was a basic risk analysis done.

As you know, the way the budget process is structured, particularly in the executive branch, it is far from perfect.

Senator KERREY. I know how the budget process is structured in the executive branch. You do not have to tell me about that.

RISK PRIORITIES

Mr. HABICHT. OK.

It is far from an ideal process, let me say. [Laughter.]

I think we have done a very good job in 1992 in targeting new resources on risk priorities. What we are doing at the Agency, and I think we will be in increasingly good shape on this over the next 2 years, is linking our long-term planning process, which is a more deliberative effort to identify risk priorities and put real information behind that with our budget process.

So, we can use the entire budget formulation period, which essentially runs from February to September, to develop investments that really reflect risk priorities.

Senator KERREY. Do you have a written copy of the risk analysis done on the earmarks?

Mr. HABICHT. We can give you a written analysis of that.

Senator KERREY. Was it done at the time or is this something that you are going to do after the fact?

Mr. HABICHT. Well, we did request earmarks for Boston and for Tijuana. And at the time we looked at it, we looked at those two things and we can give you a written response.

[The information follows:]

CONSTRUCTION GRANTS EARMARK

We did not prepare a special risk analysis on the five cities. However, the request is supported by the 1988 needs survey which indicates these five cities have the highest secondary treatment needs and represent unique high-priority coastal areas that warrant national attention. Additionally, these cities were cited in a recent NOAA study as having higher levels of chemical contaminants in their bays and estuaries, representing a significant element in the National Estuary Program.

Mr. HABICHT. We looked at this NOAA report that indicated where there were significant toxic ecological risks on the coasts of big coastal cities. Second, we looked at the list of major cities in the country in our national municipal policy to see which major cities were a long way off from achieving secondary treatment, which is critical to water quality. These cities that were on this list are the only major cities that are still several years off from receiving secondary treatment.

So, the combination of the NOAA report about ecological threats and the fact that these cities which serve many millions of people were still several years away from secondary treatment, indicated to us that, from the standpoint of people and ecology, there is some significance here.

Now, I will be candid in saying that, the budget process is not perfect and we hope to make it closer to perfect before Bill Reilly and I leave the Agency.

Senator KERREY. One of the "perfections" that this administration is seeking is the line item veto. I must tell you, this is an example of why people like myself who come from relatively small States that have a relatively small number of electoral votes, resist a line item veto. The executive puts things in there that they want. They are difficult to get out. These will be very difficult to get out.

What is going to happen is, most of the other States will suffer under the cut for the construction program. Most of the other States will have less because of these specific earmarks. They are very large earmarks, as I am sure you know. They will make it difficult for the balance of us to get resources from this program.

Would you acknowledge that that is the case?

Mr. HABICHT. Well, I think in this budget climate, those kinds of——

IMPACT OF CONSTRUCTION GRANTS REQUEST

Senator KERREY. If you present us with a cut in construction grants with four expensive earmarks, do you acknowledge that that is going to make it difficult for the balance of us to get any resources for construction grants?

Mr. HABICHT. It will make it more difficult. This is the kind of thing that we need to have a dialog about, when I say that we need to have a more cooperative process. We need to have give and take on this.

As I say, these particular cities represent populations of well over 15 million people. So, it is not just inland versus coastal. It is where you have lots of people who are potentially at risk from the absence of secondary treatment. That is one of many factors. I think what we need to get is an agreement between Congress, or as much agreement as we can between Congress and the executive branch, on what are the criteria we should use to determine if this is a more deserving investment.

I think the State revolving funds, in light of the Clean Water Act reauthorization, is something we all need to talk about and we are very willing to do that.

Senator KERREY. You have 20 percent of the construction grants earmarked. It seems to me that it is not unfair for me to say to the municipalities that are talking to me about construction grants that it is going to be more difficult for them this year unless we can reverse that. It is going to be less likely this year that they are going to get funded as a consequence of those rather expensive earmarks.

Let me follow with reinforcement over this. As I said earlier, we are heading for a train wreck on this 404 process for wetlands. You are going to lose the support of people like myself who want to preserve wetlands as a consequence of unreasonable assessment of what is and what is not wetlands. This further confused by conflicting statements in the field.

Out there in the field, they are not happy at all. They are badly confused and they are getting angrier by the minute and they are going to want to shut the whole thing down. So, we are losing, by the day, support for that 404 permit on the clean water.

I would like to—then I will yield to Senator Leahy, who has just joined us.

ASBESTOS GRANTS

Again, apropos of the need to respond to people at the local level and you are saying again that you want our help. What do I say to schools out there that are facing big bills under asbestos and the removal requirements? We have a regulation that is in place right now for asbestos removal. We are required to deal with that problem under the law.

They have heard the need to strive by the President and Governors to hit six rather difficult goals by the year 2000. Here is a noneducational objective, obviously that they have got. You have zeroed them out for asbestos grants. What do I tell them? How do I explain your decision to zero out the asbestos program?

Mr. HABICHT. Well, first of all, Senator, I think there is still money in the program to be disbursed. So, we will have disbursed over $290 million to over 1,700 schools. These are schools that, based on our analysis, have had a combination of both financial need and environmental need.

What Linda Fisher and her program have been doing over the last 6 months is providing more complete information to both school districts and others to help them avoid unnecessary removal of asbestos materials. In fact, we want to be sure that no unnecessary asbestos removal takes place. Sometimes, schools have prepared to engage in very expensive asbestos abatement activities in situations where they may not need them at all.

In addition, we do have a program that will continue to provide technical assistance and contractor accreditation, for those schools that do need to do something. We think the need is decreasing and we want to provide good information so that people do not unnecessarily spend money on this.

Senator KERREY. I do not understand what your answer is, frankly.

What am I going to say to them? They have a need that has been determined. Essentially, you are saying that some of these people do not need to remove the asbestos. I have got a school out there where it has been determined that they need to remove the asbestos, and this grant money has been cut. What do I say to them? Do I say President Bush has asked me to support this reduction and so I am going to support that reduction in the asbestos program so that we can have that money to spend to clean up Boston Harbor? What exactly am I going to say to them?

Mr. HABICHT. What I recommend that you say, Senator Kerrey, is that they must make sure that their need is real. Both the State agencies—we think the States have very good capability in this area now—and EPA are available to consult with them and give them technical advice and guidance.

EPA has not dropped out of the picture on this by any means. There is simply a judgment that this program has made a lot of progress and the need simply is not there as it used to be. Again, it is a prioritization issue. We want to help school districts. We want to be sure that they do not spend money unnecessarily.

So, we would be available to consult with them and find out whether that need is really there and do everything we can with the States to help them.

Senator KERREY. You have small- to medium-sized school districts out there for whom the removal of asbestos is very costly. They are going to have to raise property taxes or they are going to have to seek some sort of regulatory relief to deal with the problem. Or they are going to have to take funds from educational programs. They are hoping that we will help assist them in accomplishing the educational objectives the President has laid down.

Mr. HABICHT. We are very sympathetic about that. We certainly need to know what the situation really is out there. We intend to do whatever we can to deal with it.

Senator KERREY. I do not know how this particular executive branch deals with it. I suspect there is some similarity in all executive branches. I have been through this process before on the other side. It seems to me that what you are doing is, you have made reductions in your program. You know, in fact, the Congress is not going to help you with it.

I hear you saying—politically, I hope you are going to restore this and then you figure out where you are going to get the money once you have restored it. I do not think you want me to go out there and say, "President Bush has said you have to get that money out of property taxes on your own." I did not hear you saying that that ought to be the message that I ought to carry back out to those school districts that have to remove the asbestos and are attempting either to remove it or to verify that they are making every effort to do so.

BUDGET PRIORITIES

Mr. HABICHT. First of all, as in any case like this, this is a bilateral process. We certainly do not view this budget as absolutely fixed in stone. At the same time, we recognize that in this budget climate, if money goes to something, it has to come from something else.

We have made the judgment. Given 25 new laws and an increasingly growing number of priorities, we have to do the best we can. This is an area in which we have made a lot of progress on the problem. We are open to finding out where there are pockets of need that have not been addressed.

I think the important point is that we really need to determine our priorities—what we should invest in as a government.

Senator KERREY. Have you considered asking Congress to help you by stop passing regulatory laws that are too costly to enforce? Has that been considered?

Mr. HABICHT. Absolutely, Senator.

In fact, with the Clean Water Act and RCRA coming up, we hope that we can engage in a discussion on not only the need for new provisions in RCRA or clean water or safe drinking water, but also the costs and the burden and who will pay, who will bear the burden of certain provisions.

Senator KERREY. You are saying the administration has considered coming to Congress and saying, do not pass any more environmental laws with cost to them.

Mr. HABICHT. Yes; we have considered engaging Congress on exactly those kinds of issues as we address laws. Like you, we think we have an obligation to really think about both the price and who is going to pay the price for laws and make sure that society is getting its money worth.

Senator KERREY. Well, I have got a fairly large personal stake in this, because I have been arguing with a number of people in the Nebraska Legislature since I was Governor to get the State to assume the responsibility for the implementation of the Fairfield legislation and regulation.

Their case to me is always, "Well, you can not do that, because the feds will start something and then they will cut it back." And I said, "Oh, no; not in this case, they will not." But, your budget, in fact, does that. Your budget makes their argument, makes Nebraska legislators who resisted taking over Fairfield look like they did the right thing. The budget is an example that will be presented by them in arguing for the State of Nebraska not taking over Fairfield. I must tell you that I am not going to argue on the other side of it, but if I see more budgets like this, I may be persuaded to go along.

Mr. HABICHT. We have concerns like that in other programs. Bill Reilly and I spend a lot more time meeting with our counterparts in the State environmental agencies, to really find out the financial situation.

BURDEN OF COSTS FOR REGULATIONS

Senator KERREY. There are 35 States out there right now that will be raising taxes or cutting their budgets. They are not in the position of the Federal Government to be able sell bonds or $300 billion in bills. They are saying to me why are you making me—who is to pick up the tab for the regulations required here, for the investment that is required. That is the question I am trying to get answered.

I must say, I think you are doing a valiant job of answering it, in a way that sheds a good light on the EPA. Essentially, you are saying to the States, the schools, and the local government, the regulation is going to stay in place. We are going to move with great zeal to enforce the regulation and you are going to pick up the tab.

Mr. HABICHT. As I said, we are reexamining asbestos and, if anything, making clear that the needs are not as great there as may have been thought before.

We hope that we can work with you to look at this issue of economics and the burden on State and local governments, because it is a real line and we both have to step up to it.

Senator KERREY. I appreciate your philosophy, but in fact and in practice, you are increasing the burden on the States, cities, and schools. I mean, there is no question that is what this budget does.

So, I appreciate the offer to work with Congress, but I do not want it to go out in print and I do not want it to go out on radio and I do not want it to go out on television that all we need is cooperation. This budget shifts the responsibility back on both counties and schools to pick up the cost of the regulations that we are going to enforce.

Mr. HABICHT. I think the environmental protection scene has been shifting, moving responsibility in that direction for some time. It is a trend that we all have to be aware of and do the best that we can to deal with it. It did not just happen this year; it is something that has been happening for quite a few years.

Senator KERREY. About 10 approximately.

Mr. HABICHT. Yes, sir?

CIRCLE OF POISON

Senator LEAHY. I have a few questions for you. Let me go through a couple of things.

I wear a couple of hats here. One is as a Member of this committee, the Appropriations Committee. I wear another one as the chairman of the Senate Agriculture Committee.

Last year, when we were developing the farm bill, we wanted to make it the most environmentally conscious farm bill possible. Among other things, we included the so-called circle of poison legislation in it. We wanted to stop the export of pesticides which are considered unsafe for our farmers and which we know are returning to the United States on imported food. Basically, our law said, you can not use a pesticide if it is unsafe for us here, and you can not export it to other countries so it comes back to us.

It was a good piece of legislation. It had a lot of support, except for the administration. The administration came up here with hammers and tongs to try to stop that legislation. The main argument was, if we do not export this pesticide, well then, somebody else will. In other words, the legislation should be fought largely on the basis that it made no sense because if we do not do it, somebody else will. That seems to be the administration's position. Yet, the administration has banned other chemicals from being exported that numerous other countries demand. I will give you an example.

Last year, we banned ether from being exported to South America. Now, ether is a fairly simple substance. It is used legally here in the United States. But it was thought ether was being used to make cocaine in South America. So, we banned it. That is fine. I do not disagree with that.

But here, we are saying that you banned ether, but you will not ban pesticides that are going to be used for food that comes back to American citizens.

Last month, the Commerce Department banned the export of some perfectly legal substances, including pesticides and fertilizers, to prevent the production of chemical weapons. I am not suggesting that was not a great idea. They should have done that. But again, we face a dual standard. The administration will say in some instances, because of a foreign policy objective, we will ban it. But if it is the safety of the American people, we do not ban it.

The administration used moral leadership as its basis for banning the export of legal substances because they will be dangerous if misused.

So, if it is moral leadership to ban the export of ether to South America, moral leadership to ban the use of fertilizers and the export of fertilizers to some countries, should not the same moral leadership stop the export of chemicals that we know are dangerous, that we know are going to end up on our food that comes back to the United States?

Mr. HABICHT. Senator, I will ask Linda Fisher, who has spent a lot of time on this issue to give you her perspective in a moment.

Our perspective on this is that, we are very sympathetic to the concerns that you have expressed. What we are all grappling with right now is how we develop a world trading system that is free and open and environmentally sensitive and well informed which, in the long run, will promote both harmonization and sound environmental practices. We very much support the notion of good information—prior informed consent—so that we are not foisting dangerous, risky materials on another country whether they are permitted or not.

In this case, I think we supported the notion of prior informed consent.

Senator LEAHY. My apologies if I take just a moment and then I would like to hear Ms. Fisher, who has been a valued witness for the EPA before the Agriculture Committee on a number of instances.

Much of what you say is a policy statement and I want to disagree with it. The arguments made by EPA last year sounded like EPA obtained their song sheet from the chemical companies and just read it off. There was not much for EPA to base the Agency's opposition on other than the fact that some chemical companies felt that, due to debating over the use of the export trade, they could not send these unregistered pesticides, some banned because of the danger, to other countries to be used in those other countries, because the food tainted with pesticide residues would come back.

I would be happy to hear what you have to say about that.

EXPORT OF PESTICIDES

Ms. FISHER. Senator, as we progressed through the debate, we did support a ban on the export of pesticides that we banned here. So, we agreed with that portion of your bill.

Senator LEAHY. Yes; but that is a tip of the iceberg thing. You would have restricted the export of banned chemicals. Very, very few pesticides fall into that category. In fact, your proposal would not have affected a number of chemicals used on food overseas for which the EPA has denied registration or tolerance application.

Ms. FISHER. The areas that we agreed on were if the pesticide was banned or severely restricted in the United States, it should be prohibited from being exported. We also agreed with you that, unless a pesticide that was not registered in the United States because it had not been reviewed or had not fully completed our review process, could not be exported unless there was a practical detection method. So, we would be able to pick up the residues of that if it was, in fact, coming back across the borders.

Where we disagreed, was that you supported a ban on any chemical that was not registered in the United States. We put forward an alternative that it could be exported if it were not registered in the United States if it was registered in another industrialized country. So, if it were registered in West Germany or France, it could be exported provided the information under which it was registered was made available to the importing countries.

Senator LEAHY. As I recall, you even supported the export of chemicals where registration had been denied here. Registration had been denied on these chemicals and they could have still been exported.

Under that standard, the standard you have just spoken to here, we could have denied a registration, but the chemicals could still be exported and used on food that would then come back to U.S. consumers.

Ms. **Fisher**. Only if there was a detection method that was practical and only if it was registered in an OECD country.

Senator **Leahy**. Well, last October I wrote the EPA. I asked for a list of the chemicals that are not approved here, but are exported abroad and not approved. I asked for some substantiation to the claims in EPA's letter about the impact on the pesticide industry and American jobs.

Finally, this week, I got a list of the total chemical exports in 1989. I still do not know how many chemicals are exported that are not approved for use here. I would think that, assuming you made this policy decision, I would think that somebody in EPA at least knows what chemicals are not approved here, but are exported abroad and used on food.

Apparently, you cannot get that. You cannot get that list. We have tried for months and months to get it from EPA.

I have also been told by EPA, when you lobbied against the circle of poison, that it is going to have an impact on the chemical industry. So, I have asked, how much of an impact? How many jobs will be lost? Nothing has come back from EPA.

That is why I say, I think that the EPA may have been sold a bill of goods by the chemical companies. Everything you came up with was based on the talking points, unsubstantiated, given out by some of the chemical companies. Maybe it is a heck of a coincidence that you happen to be saying exactly the same thing, with the same lack of substantiation.

Ms. **Fisher**. The economic analysis was done by the Department of Agriculture through their Economic Research Service. You would have to ask them.

Senator **Leahy**. They pointed to you.

Ms. **Fisher**. For those statistics, the economic analysis was done by the Department of Agriculture. I do not think they point to us for that. They may point to us for the list of chemicals. And I will check. I thought we provided you the information on what was exported. We can do a cross-check if that is not in the list that we gave you this week.

Senator **Leahy**. No; you gave me a list of chemicals exported in 1989.

Ms. **Fisher**. OK.

Senator **Leahy**. I do not know how many chemicals are exported that are not approved for use here. That is really what I want.

Ms. **Fisher**. OK; we can add that.

Senator **Leahy**. I do not mind about the chemicals that we have approved for use here. That is not the question.

Ms. **Fisher**. I thought that was the list we gave you, but I will check it.

[The information follows:]

PESTICIDES BANNED IN THE UNITED STATES

Attached is the information requested on pesticides which are exported abroad, but not registered for use in the United States. The following two lists represent the EPA registration/tolerance status of pesticides exported under FIFRA section 17(a)(2) for 1989 and a list of foreign purchaser acknowledgement statements received in 1989 by active ingredient or product name.

[The information follows:]

EPA Registration/Tolerance Status of Pesticides Exported Under FIFRA Section 17(a)(2) for 1989

Pesticide Active Ingredient/or Product	**FFDCA Approved*****	**FIFRA Registration**	**Remarks**
Haloxyfop	No	No	Registration Pending
Carbosulfan	No	No	Registration Pending
Ebufos	No	No	Never Registered
Alphacypermethrin	No	No	Never Registered
Aluminum phosphide	Yes	Yes	
Carbendazim	No	No	Registration Pending
Triflumuron	No	No	Registration Pending
Trichlopyr	No	Yes	
2,4-D	Yes	Yes	
Trilsoprop			No PC Code ##
XRD 454-03			No PC Code
3-Indole butric acid	Yes	Yes	Exempt from a tolerance when used at less than 20 grams per acre.
Cypermethrin	Yes	Yes	
Bensulfuron-methyl	Yes	Yes	
Trimidal	No	No	Never Registered
Acetate Pheromone			No PC Code
Fluvalinate	Yes	Yes	

Pesticide Active Ingredient/or Product	**FFDCA Approved*****	**FIFRA Registration**	**Remarks**
Kathon 905, Kathon 925, Kathon 930			No PC Code
DPX 168			No PC Code
Prominex			No PC Code
Dinoseb	Yes	No	All Registrations Cancelled 6/19/87
XRM-4570 EXC			No PC Code
Flusilazol	Yes	No	Registration Pending
Heptachlor	No	Yes	Only approved use pattern is to control fire ants in cable boxes. Action levels in place.
DDT	No	No	All products cancelled. Action levels in place.
Chlordane	No	Yes	Termiticide products cannot currently be used pending generation and review of substantial data requirements. Action levels in place.
Azinphos methyl	Yes	Yes	
Hexythiazox	Yes	Yes	

Pesticide Active Ingredient/or Product	**FFDCA Approved*****	**FIFRA Registration**	**Remarks**
Bifenthrin	Yes	Yes	
Prothiophos	No	No	Never Registered
Terbuthylazine	Yes	Yes	
Benomyl	Yes	Yes	
Thiameturon methyl	Yes	Yes	
Sulfosate	No	Yes	
Butachlor	No	No	Never Registered
Acetochlor	No	No	Registration Pending
Ethalfluralin	Yes	Yes	
Endosulfan	Yes	Yes	
Triforine	Yes	Yes	
Indole butric acid	Yes	Yes	
Verbenone P802	No	No	Registration Pending
Chlorpyrifos	Yes	Yes	
Picloram	Yes	Yes	
Dicofol	Yes	Yes	
Permethrin	Yes	Yes	
Z-11 tetradecen-1-yl			No PC Code
N-Dolecanyl acetate			No PC Code
DPX L5300	Yes	Yes	
Mancozeb	Yes	Yes	
Isoxaben	No	Yes	

Pesticide Active Ingredient/or Product	**FFDCA Approved*** **	**FIFRA Registration**	**Remarks**
Malathion	Yes	Yes	
Lindane	Yes	Yes	
A3990B			No PC Code
Propazine	Yes	No	All Products Cancelled. Non-payment of fees.
Simethryn			No PC Code
Terbumeton			No PC Code
Dipropentryn			No PC Code
Terbutryn	Yes	No	All Products Cancelled. Data call-in and non-payment of fees.
Curzate M-8	Mancozeb-Yes Cymoxanil-No	Mancozeb-Yes Cymoxanil-No	Product contains two active ingredients: mancozeb and cymoxanil.
Myclobutanil	Yes	Yes	
P350 Trans-beta Farnesene	No	No	Never Registered
Terbuconazole	No	No	Registration Pending
2-sec-butylphenyl-N-methyl-carbamate			No PC Code
P408 Ipsenol			No PC Code
P301			No PC Code
P604			No PC Code

Pesticide Active Ingredient/or Product	**FFDCA Approved*****	**FIFRA Registration**	**Remarks**
Z, E-9, 12-tetradecadien			No PC Code
Methamidophos	Yes	Yes	
Grandlure I	Yes	No	All Products Cancelled. Data call-in.
2[(4,6-dimethoxypyrimidin-2yl)-ammino carbonyl]			No PC Code
Z-5-dodecen-1-yl acetate			No PC Code
E-8-dodecen-1-yl acetate			No PC Code
Diazinon	Yes	Yes	
Esprocarb			No PC Code
Monocrotophos	Yes	No	All Products Cancelled. Voluntary cancellation.

*** "Yes" answer in this field denotes approval for at least one use for the active ingredient under FFDCA Sections 408/409.

The PC Code (Shaughnessy Number) is a tool used by OPP's Registration Division to identify chemicals proceeding through the registration process. If a PC Code cannot be matched to an active ingredient it is an indication that EPA has not reviewed any registration application(s)/petition(s) corresponding to the referenced chemical.

List of Foreign Purchaser Acknowledgement Statements Received by OCM in 1989 by Active Ingredient or Product Name

	a.i.	Product(s)
1.	Haloxyfop	Gallant Herbicide, EE-F, 125EE
2.	Carbosulfan	Marshal 25EC, 5C, 40DB, Tech, 4EC, 255T, 25EE, 250 ULV, 20EC, 480EC
3.	Ebufos	Rugby 10G
4.	Alphamethrin	BALA, Dominex
5.		Passe
6.	Phosphine	Turbocide
7.	Carbendazim	Airmilled, Carbendazim Tech
8.	Triflumuron	Alsystin
9.	Trichlopyr	
10.	2,4-D	
11.	Trilsoprop	
12.		XRD 453-03
13.	3-Indole butric acid	
14.	Cypermethrin	Arrivo 25, 10EC
15.	methyl 2-[[[[(4,6 dimethoxyprimidin....	Londax
16.	Trimedal	Nuarimol
17.	Fluvalinate	Acetate Pheromone
18.		Apistan Strip
19.	4,5-dichloro-2-N octyl-3(2H)-isothiazolone....	Kathon 905, 925, 930
20.		Bestox
21.		DPX-YA 168
22.		Prominex
23.	dinoseb	Dinozeb
24.		XRM-4570 EXC
25.	Flusilazol	Punch
26.	Heptachlor	Wayvan
27.	DDT	
28.	Chlordane	Chlordane 8EC
29.	Azinphos methyl	
30.		Savey
31.	1-[[Bis(4-Fluorophenyl)....	Nustar 20DF
32.	Bifenthrin	Talstar 10BC, Brigade
33.	Prothiophos	
34.	Terbuthylazine	
35.	Benomyl	Benlate
36.	methyl-3-[[[[(4-methoxy....	Harmony 75DF, Refuse
37.		Touchdown
38.	Butachlor	Machete
39.	Acetochlor	
40.		Sonalan
41.	Alphacypermethrin	
42.	Endosulfan	
43.	Triforine	
44.	Indole butric acid	
45.		Verbenone P802
46.	Dursban	Dursban 256G
47.	2-(4-chloro-z-methyl-phenoxy)aectic acid 4-amino-3,5,6-trichloro-dicolinic acid	MCPA, Picloram, Tordon 2696
48.	Dicofol	Kelthane, 35, MF, Tech, 35UG
49.	Permethrin	
50.	Z-11 tetradeceu-1-yl	
51.	N-Dolecanyl acetate	P306, Z-7
52.	methyl-Z-[[[[(4-methoxy-6	Ally, DPX L5300
53.	Mancozeb	
54.		Isoxaben EL-107

	a.i.	Product(s)
55.	Malathion	
56.	Lundane	
57.	4-ethylamine-2-tert....	A3990B
58.	Propazine	Propazine Technical
59.	Simethryn	Simethryn Technical
60.	Terbumeton	Terbumeton Technical
61.	Dipropentryn	Dipropentryn Technical
62.	Terbutryn	Terbutryn Technical, A41054
63.		Curzate M-8
64.		RH-3866 Technical
65.		P350 trans-beta Farnesene
66.	Terbuconazole	
67.	2-sec-butylphenyl-N-methyl-carbanate	BPMC Technical
68.		P408 Ipsenol
69.		P301
70.		P604
71.	Z, E-9, 12-tetradecadiem....	P605
72.	Methemidophos	Methemidophos 600 G/L
73.		Grandlure I
74.	2[(4,6-dimethoxypyrimidin-2yl)-ammino carbonyl]....	Challenger
75.	Z-5-dodecen-1-yl acetate	P302
76.	E-8-dodecen-1-yl acetate	P307
77.	diazinon	Neocidol, Basudin
78.	Esprocarb	Esprocarb Tech
79.		Azodrin 5

Senator LEAHY. Well, I talked to Mr. Reilly about this, I believe, earlier this year. I still think the circle of poison legislation is important. I guess there will be a lot of red herrings thrown out when I reintroduce it.

I do intend to reintroduce it. I want a tough law. I do not want something on the books just to say we had something on the books. The administration proposed a compromise last year. It was watered down and allowed a lot of people to claim victory, but it would not do a darned thing.

Basically, I do not want food to come on the shelves of our stores here in the United States with chemicals on them that we would not allow American farmers and producers to use. We would not allow our farmers to use them for good and just reasons. That is just from a pure safety point of view.

If the Department of Agriculture, the Department that often does not give much consideration to environmental issues, has not been concerned with health and safety, the Department can concern itself, at least, with the fact that the American producers are not allowed to use those chemicals, and foreign producers should not either.

More importantly is the consumer. When I go in the grocery store and buy groceries, I want to know that the food I get is safe. I am sure you do, too.

Ms. FISHER. I share that, Senator Leahy and, in fact, this year, spent an awful lot of time working through an issue with the French and Italian Governments. Their wine that was being exported to the United States, contained a pesticide that was not registered here. The Environmental Protection Agency and FDA spent a lot of time trying to convince the Europeans that, even though their wine contained a pesticide fully recognized and registered in

Europe, because it was not accepted here, we were going to have to bar entry to a lot of French and Italian wine.

It is a very difficult issue. We think that the legislation you put forward had several points that absolutely would improve the loss we had. I hope we can reach agreement on an area that, actually, I consider to be a small area, where we have disagreements.

Senator LEAHY. Circle of poison will be back up again. We will see the same industry lobbyists against it and the same people who are interested in food safety for it. I would like to add the administration, including the EPA and the USDA, in favor of the legislation. We have a major safety issue.

I do not question your commitment personally. In fact, I have a great deal of respect and admiration for the work you do. I appreciate very much the amount of work you have done with the Agriculture Committee on some very difficult issues.

I want to make sure that when the debate is joined that I am hearing the administration's position, well thought out and not something that is simply from lobbyists or industry, no matter what that industry. I do not care whether it is from an agricultural producing industry, a chemical industry, or anybody else. This is a case where none of us should feel beholden to any particular industry. I do not feel that way. I do not believe that you do. So, let us find out what it is best for the Government to do.

Mr. HABICHT. Senator, we will certainly, as Linda says, get in early and help identify where we do and do not agree so we focus right away on what the real issues are. We agree with the goals.

I would just mention briefly also the work we are doing internationally, particularly what Linda is doing with other countries to harmonize the testing of chemicals, the standards set in both the GATT and through other means. In the long run this will help make a free and informed trading system along with whatever we do here.

So, we are paying attention to this, needless to say.

REGISTRATION OF OLDER PESTICIDES

Senator LEAHY. I just recently sent a letter to the administration requesting information about the status of the registration of older pesticides mandated in 1988. We had some concern about the viability of the program. I asked, one, to provide a progress report on the departmental status of each list A food use chemical, the data submitted by the manufacturer, and the studies that are overdue. Second, to provide the names of any products that have been suspended due to the failure to provide timely data.

How soon can we have that information?

Ms. FISHER. Senator, I can leave some of it with you today. I have got a pie chart that will show you the status in terms of gross numbers of all the list A chemicals and then chemical by chemical, when the last study is due into the agency.

In terms of your other question, we issued notices of intent to suspend 60 chemicals, because there was a failure to meet the data requirement at the required date. Ten of those have actually been suspended. For the other 50, the registrants have either gotten the data in or we are still going through the process. Once we give them a notice of intent to suspend, they have about 75 days to perfect their delinquency and then we request an administrative hearing.

So, we have given notices on 60; 10 of them have been suspended. On the other 50, they will either step forward as promised or we are going through an administrative process on them.

Senator **Leahy**. Well, I certainly appreciate that. I should note for the record that the letter to you has addressed only two things. You are responding in more detail. I just want to make sure that I have the information now rather than several years from now when it will be too late.

I do appreciate that effort. I did not expect you to have whole answer today, by any means, on such short notice. I would like it for the record. It is something I will use, not in this committee, but in the Agriculture Committee.

There is one other area I wanted to cover.

LAKE CHAMPLAIN

There is a note here from a memo of mine. The EPA has done an admirable job in implementing the Lake Champlain Special Designation Act. I mention that because Lake Champlain, if you have not seen it, is a magnificent lake that runs between Vermont and New York. It also goes up into Canada. My home town of Burlington is on that lake. It is a beautiful, beautiful lake. I believe it is, by volume, the largest fresh water lake in the United States outside of the Great Lakes.

Last year, Senator Jeffords, my colleague from Vermont, as well as Senator D'Amato and Senator Moynihan, joined together with me and passed the Lake Champlain Special Designation Act and authorized a management conference and research and demonstration project with a $2 million annual appropriation.

I want you to know that EPA and your region I, which covers Lake Champlain, have worked very well. I want to compliment all of you involved in the efforts being made to get this conference up and running. The $2 million was appropriated for fiscal year 1991 and it will be spent this year. I am hopeful that another $2 million will be appropriated next year.

I mention that because I have been up to some of the preliminary meetings on this project. If you come from a State as small as mine, you tend to know everybody. As I looked around at some of the disparate good people there, they go across the political spectrum, across the economic spectrum, of both Vermont and New York.

I think every one of them will eventually be singing your praise and the Federal Government you represent on what is happening.

So, I give you high marks on that and I may well have a couple of questions on the record, but it is progressing very well. I am taking it as a personal matter when you have one of your major meetings up there in the spring. I intend to set my schedule so I can be there. I have had staff at virtually every one of these meetings. I have met personally with most of the people and I think that it is a project that the people of Vermont and New York are going to be very proud of when it is finally completed.

I do not want to sound like the chamber of commerce for Vermont, but as a native Vermonter, I have known this lake all of my life. It is a remarkable lake. Down at the Smithsonian is one of the gunboats from Lake Champlain. The lake is so deep and so cold that it preserved that gunboat since the Revolutionary War. We are about to pull up another one that has been preserved there. It is so cold in Vermont, as you know, that we have 10 months of winter and 2 months of poor sledding. [Laughter.]

Mr. **HABICHT**. I appreciate you bringing that up, Senator.

I would just say that, we have had great success in getting disparate groups together when they focus on a treasure like that, which everyone values, whether it is the Great Lakes, a river, or a beautiful lake like that, rather than focusing on some abstract environmental issue.

I appreciate you taking the time to make your comments.

CONCLUSION

Senator **LEAHY** [presiding]. This is a good lesson to all of us, myself included. Sometimes, we can get ourselves locked into rhetoric until we get to the reality about it and then we solve the problem. The rhetoric quickly drops aside. What really works here is what is realistic.

I vote that the record stay open until the end of the day for any further questions for the record.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

RISK-BASED PLANNING

SENATOR MIKULSKI: Has the Science Advisory Board reviewed your FY 1992 budget to see whether it makes sense in terms of risk-based planning? If not, will you give it to them and submit their findings to the Committee by May 15?

ANSWER: As we have discussed on several occasions, we are very interested in the issue of risk-based planning, and our FY 1992 budget does contain a variety of changes which are intended to push us in this direction. With regard to your specific request, the Science Advisory Board has not undertaken a review. Therefore, we have forwarded your request to the Board for their consideration. Please note that even if the Board is able to undertake such a review, it would be difficult for them to meet the suggested deadline. As a Federal Advisory Committee, they must follow certain procedures that would preclude completion of a report in only a few weeks.

RISK ASSESSMENT METHODS

SENATOR MIKULSKI: The Science Advisory Board recommended EPA improve its methods to assess risk. How do you plan to accomplish that? Risk assessment, which relies on both fact and judgement, has been criticized as being too easily manipulated to form a sound basis for setting national priorities for programs to protect health. Please address these criticisms and describe the steps EPA will take to ensure sound risk assessments.

ANSWER: The Science Advisory Board made a variety of specific findings about data gaps and shortcomings in methodologies available to make the kinds of risk-based comparisons that can be useful for setting national priorities. It also made recommendations about what the Agency ought to do to address these problems. We currently have a cross-office task force considering EPA's options for following up on these recommendations. The task force intends to have a further discussion with the SAB on this subject later in April.

REQUEST FOR RISK EVALUATIONS

SENATOR MIKULSKI: How much is the agency requesting for relative risk evaluations? How does the agency plan to ensure that such efforts do not compromise the underlying statutory missions and goals of the agency?

ANSWER: The FY 1992 budget that we submitted to Congress does not contain a specific amount for relative risk evaluations. We will be continuing to collect better data that can be used for relative risk evaluations. We are currently trying to plan what particular projects at the regional and national levels we should be doing. We anticipate doing this work within the budget we have submitted to you. Throughout these efforts we will be keeping our statutory missions and goals in mind. We will also be keeping you informed of the results of the comparative risk work, so that you will be able to consider it as you consider the statutes under which we operate.

RISK EVALUATIONS/SOCIETAL INJUSTICES

SENATOR MIKULSKI: Many legitimate factors beyond science now contribute to citizen outrage over environmental hazards -- the degree to which the risks are voluntary, inequitably distributed, or are outweighed by other benefits to society such as jobs. How will the agency ensure that its relative risk evaluations are not blind to societal injustices?

ANSWER: Whenever we make decisions about priorities we must take many factors into account. Relative risk is one of the factors. But often the problems which concern people the most are not the ones which account for the greatest risks -- because of the very types of factors which you have mentioned. In the past we have often not given enough weight in the decision making process to relative risk. We are now trying to enhance the public debate on priorities by introducing more information on relative risk. We are doing this because we know that in a democracy our priorities are ultimately set by levels of public concern. Levels of public concern will always be sensitive to social justice.

CLEAN AIR BUDGET REQUEST

SENATOR MIKULSKI: It is my understanding that the Office of Management and Budget cut EPA's original request for air programs by $114 million. Do you believe your budget request would provide the resources you need to accomplish your mandate set out by the new Clean Air Act, or will there be a shortfall?

ANSWER: In FY 1991, EPA received an increase of 247 workyears and $82.5 million for Clean Air Act implementation. We hired many of the new staff by the end of FY 1990, thus ensuring that we were able to begin work as soon as the President signed the Act on November 15, 1990. For FY 1992, EPA is requesting an increase of 341 workyears and $117 million. $24.5 million of this increase is for state grants.

The Agency has made conscious choices to defer some lower priority ativities in the Act. The resources provided in FY 1991 and in the President's FY 1992 budget request are adequate to accomplish the goals of the Agency's two-year Clean Air Act implementation strategy published on January 15, 1991.

PRIORITIZING MANDATES

SENATOR MIKULSKI: How will you prioritize your mandates to ensure that at least the most vital tasks are accomplished?

ANSWER: Within 60 days of the President's signing the Act into law the Agency has issued a detailed two-year implementation strategy to meet the extensive requirements of the new Act. Attached is a summary of this strategy. The strategy outlines our regulatory agenda for the first two years, complete with detailed timelines for each title in the law to ensure the mandates of the Act are met.

AIR PROGRAM STATE PARTICIPATION

SENATOR MIKULSKI: State participation is critical to the success of the Air program. Will the states have the resources they need? If states do have a shortfall, what will be the impact?

ANSWER: States receive grant funds under section 105 of the Clean Air Act. The FY 1992 President's budget includes $162.7 million which represents a $24.4 million increase over FY 1991 and a $63.6 million increase over FY 1990. We believe that this increase will, in conjunction with the States' matching funds, provide a significant share of resources needed to implement activities critical to implementation of the Clean Air Act of 1990.

STATE GRANTS PRIORITIES

SENATOR MIKULSKI: In allocating state grants, will EPA establish priorities to ensure that states carry out the most critical activities?

ANSWER: Every year EPA's Office of Air and Radiation produces grants guidance that spells out annual priorities for EPA regions and states. The office also develops a companion national allocation of grant funds based upon these priorities and other overall needs. The grants and the allocation are the results of a logical and continuing Agency planning and budgeting process. The process begins with an assessment of the areas of the greatest health and ecological risk, accounts for the need to fulfill mandated strategy requirements, and incorporates other regional-specific priorities and needs, where appropriate.

Following the passage of the Clean Air Act Amendments of 1990 the Agency issued a two-year implementation plan. This plan details annual priorities and forms the basis for the Agency's detailed operating guidance. Grants guidance is developed based upon the operating guidance. For the last several years EPA regions and states have played a greater role in discussions on how to allocate available grant funds. Once funds are distributed to the regions, further detailed negotiations take place between EPA and each state to determine state-specific priorities and critical activities.

EPA INTERNAL ADVISORY GROUPS

SENATOR MIKULSKI: What internal advisory groups -- the Science Advisory Board for example -- are participating in the drafting of proposed rules regulations, and guidelines? What are their roles? How do you ensure their technical balance and policy nonpartisanship? Are these bodies looked to for their generation of consensus or for articulation of different viewpoint?

ANSWER: We have established several advisory committees for policy and technical input into our program to implement the Clean Air Act Amendments. The committees are as follows:

Clean Air Act Advisory Committee The Clean Air Act Advisory Committee is a recently formed 46 member group that will advise EPA on policy issues related to implementing the Clean Air Act Amendments of 1990. The Committee is a geographically balanced group from state an local governments, academic institutions, environmental and citizen action groups, unions, industry and the service sector. The Committee will not draft proposed rules or guidelines but rather provide two-way communication on major policy issues regarding the Clean Air Act. Where possible the Committee will provide consensus advice but individual members views will be considered. Committee meetings are expected to be held quarterly and a public record of the Committee's discussions will be maintained.

Acid Rain Advisory Committee The Acid Rain Advisory Committee (ARAC) is a 44 member group recently formed to advise EPA on issues related to implementing the acid rain title of the Clean Air Act Amendments of 1990. The Committee is composed of experts from the utility industry, energy companies, environmental groups, public service commissions and other state and local governmental organizations. The ARAC had been organized into various work groups and is currently drafting proposed EPA regulations. The meetings of ARAC are open to the public and a public record of the Committee's discussions is maintained.

Stratospheric Ozone Protection Advisory Committee The Stratospheric Ozone Protection Advisory Committee is a 27 member group voluntarily established in October of 1989 to provide outside policy and technical input into the Air program to implement the Revised Montreal Protocol and protect the stratospheric ozone layers. The committee members are composed of producers and major users of chlorofluorcarbons (CFCs) and halons, environmentalist, academicians, and state and local representatives. The full committee meets quarterly and has four subcommittees focusing on mobile air conditioning; nonessential uses of CFCs and halons; labeling; emission reductions; and ad hoc group meeting on other issues as needed.

Science Advisory Board A public advisory group providing extramural scientific information to the Administrator and other officials of the Environmental Protection Agency. The board is constructed to provide a balanced expert assessment of scientific matters related to problems facing the Agency such as risk assessment, exposure modeling and monitoring. The Clean Air Scientific Advisory Committee (CASAC) is a standing committee of scientists, academicians and others that advises EPA on technical issues relating to the national ambient air quality standards, The CASAC is part of the Science Advisory Board

CITIZEN INPUT AT REGULATORY HEARINGS

SENATOR MIKULSKI: What provisions are being made for citizen involvement in regulatory hearings? Are their funds on the budget for this purpose?

ANSWER: Our goal is to inform as many affected parties as possible across the nation about the requirements of the Amendments and to acknowledge all perspectives of interested parties on the controversial issues before we propose regulations. We will continue taking full public comment on each of our proposed rules. However, it is our belief that we can better meet the goals given us by the Congress by addressing as many contentious key issues as early as possible in the regulatory process.

We are using a number of different forums including advisory committees, formal regulatory negations, informal roundtable. For example, the informal, roundtable discussions bring together industry, state and local governments, environmental groups and other organizations who are instrumental in developing the legislation to obtain their opinions and assistance in key implementation issues as early as possible.

As part of the extensive consultation process we are using to help ensure that we meet tight time frames, the Agency is also planning to make use of formal, negotiated rulemakings, referred to as "reg neg". Under this process, a committee with representatives from key interest groups is established under the Federal Advisory Committee Act. Issues are identified and resolved in a collective manner, This process allows interested parties to have a more direct input into the development of regulations.

In developing our budget requests, we do not identify funding for public hearings as a specific line item. However, funds for public hearings are included in the overall cost of developing a regulation.

ENVIRONMENTAL EDUCATION

SENATOR MIKULSKI: How specifically will you use the Office of Environmental Education to encourage young people to embark on careers in environmental and scientific fields?

ANSWER: The Agency will encourage young people to embark on careers in the environmental and scientific fields in a number of ways. For FY 92 we will implement the internship program as mandated under the National Environmental Education Act (NEEA), as well as strengthen our cooperative education programs currently existing in our Office of Research and Development Laboratories. Administrator Reilly also has entered into a Memorandum of Understanding with the Department of Energy to work with Admiral Watkins on his Science and Math Initiative. This program relies on both EPA and DOE for internships. These internships will provide young people with exposure to science and environmental education activities and will expand the existing outreach efforts of our EPA laboratories.

We also will be implementing Education and Training Programs that will allow teachers, through a cooperative agreement with a consortium of leading universities, to develop curricula and innovative approaches to integrate teaching environmental education with science and math. This program is designed to enhance the skill of teachers in the classroom and also help those pursuing their education degrees. This will be an important effort for strengthening the skills of our cadre of teachers and therefore enhance the way science, math and environmental issues are taught. In addition, the Agency will target grants under the National Environmental Education Grants Program to support innovative efforts in science and math education.

SENATOR MIKULSKI: Why doesn't the Office of Research & Development run this program, since that is where you have environmental science expertise? How will you use the resources that the EPA labs officer to stimulate environmental education?

ANSWER: The Office of Research and Development is critical to environmental education, and the attached summary highlights current education efforts underway through our ORD laboratories which we continue to expand. Nevertheless EPA believes that the new requirements for K-12 and college undergraduate programs in the Environmental Education Act demand that we establish a cross program media approach for environmental education.

We need to tap into the scientific and technical expertise which exists in all EPA program offices. We are currently creating an internal EPA Advisory Board for environmental education. This group will include representatives from ORD, EPA labs, all regions and headquarters program offices. Through this approach we will assure an integrated effort and efficient utilization of the Agency's education resources.

EPA MATH AND SCIENCE EDUCATION

Prepared by: The Office of Research and Development

This report contains the prime contacts responsible for developing and administering math and environmental science education efforts at U.S. EPA. Brief descriptions of existing pre-college, undergraduate, and graduate education programs, and a list of EPA laboratories that are currently conducting math and science education initiatives and short descriptions of the current laboratory activities.

I. RESPONSIBLE OFFICES

- Office of Communications and Public Affairs

Office of Environmental Education
Contact: Mike O'Reilly
Acting Director

Office of Research and Development

Office of Exploratory Research
Contact: Roger Cortesi
Director

II. CURRENT MATH AND SCIENCE EDUCATION PROGRAMS/INITIATIVES

A. Pre-college

Environmental Education Office

Development of comprehensive formal pre-college education programs is currently in the initial planning stages at EPA. FY92 program plans stem from provisions included in the National Environmental Education Act which was signed into law on November 16, 1990. As a result this legislation, the Agency will focus on two broad areas of environmental education: improving basic science literacy as the core of environmental education for students in grades K through 12 and colleges; and, informing the general public about the environmental consequences of their individual and collective actions and motivating them to address environmental problems. The programs will be developed and coordinated through EPA's recently established an Office of Environmental Education. Highlights of current activities include:

- MOU with DOE to encourage students to pursue careers in environmental and energy-related scientific and engineering fields.
- Development of an information exchange for multimedia education products.
- First International Youth Environmental Action Forum.
- Presidential Environmental Youth Awards.
- National Network for Environmental Education Centers.
- Pollution Prevention Education Program.

Office of Research and Development

ORD has primary responsibility for undergraduate, graduate, and post-graduate education, but also assists the Environmental Education Office on pre-college math and science education initiatives. Examples of recent contributions include development of a "Student's First Source Book on Acid Rain," and development of Environmental Resource Curricula in conjunction with science teachers from around the U.S.

B. Undergraduate, Graduate & Post Graduate

Office of Exploratory Research

The ORD's Office of Exploratory Research engages in science and math education activities primarily through two minority assistance programs.

1. ***Minority Institutions Assistance (MIA) Program***

The MIA program was initiated in 1981 in response to Executive Order 12320 to increase research support for eligible Minority institutions and to provide fellowships for students attending these institutions. The program has three separate components which are described below.

Research Assistance Program - The MIA Research Assistance program is part of the regular competitive research grants program, managed by OER. MIA grant applications are processed, evaluated, and reviewed with all other applications. The differences between the MIA and the regular competitive program are the availability of preapplication assistance upon request, and the limited mount of funds by the Peer Review Panels.

Minority Institution Fellowship Program (MIFP) - The MIFP is a competitive Program that was established in 1983 and, since, has awarded academic fellowships to students attending Minority Institutions. The objective of the Program is to encourage students to develop careers in environmental research.

Minority Institution Summer Intern Program (MISIP) - In 1985 for the first time, recipients of fellowships were offered the opportunity to gain better awareness and practical understanding of environmental issues through the Minority Summer Intern Program (MISIP). As an extension of the MIFP, the purpose of the MISIP has been to place academic fellows in EPA or other environmental facilities where, under the auspices of a mentor, they actually participate in the conduct of environmental projects specifically related to their areas of academic training.

2. *Minority Academic Institution Program (MAIP)*

The Minority Academic Institutions Program (MAIP) supports eligible minority institutions offering graduate and postgraduate programs to students. It includes:

Minority Academic Institutions Graduate Assistance Program (MIAGAP) - In this program, eligible institutions who have successfully competed will receive training funds through a grant mechanism to be disbursed among qualifying students as academic support including payment of tuition, books, other fees and a living stipend. A competitive procedure conducted on a periodic basis will be used to award grants for academic training. The program will be open to students enrolled a the MIA's at the graduate and postgraduate level who major in the environmentally related sciences, mathematics or engineering and who maintain a minimum 3.0 GPA on a 4.0 GPA scale. Approximately 50 students are expected to receive awards.

III. LABORATORY MATH AND SCIENCE EDUCATION PROGRAMS

EPA laboratories do not have any formal environmental education programs. Nine of the twelve EPA Laboratories are currently engaged in math and science education outreach activities Many of the lab efforts target the grades K-12 Following is a list of these laboratories.

- **Air and Energy Engineering Laboratory Research Triangle Park (RTP), NC**
- **Atmospheric Research and Exposure Assessment Laboratory - RTP, NC**
- **Health Effects Research Laboratory** - RTP,NC
- **Environmental Monitoring Systems Laboratory Las Vegas, Nevada**
- **Robert. K Environmental Research Laboratory Ada, Oklahoma**
- **Environmental Research Laboratory** - Athens, **Georgia**
- **Environmental Research Laboratory - Gulf Breeze, Florida**
- **Risk Reduction Engineering Laboratory Cincinnati, Ohio**
- **Environmental Monitoring Systems Laboratory Cincinnati, Ohio**

What follows is a description of laboratory projects related to math and science education.

EPA Laboratory Education Programs

Research Triangle Park Laboratories

There are three EPA labs in Research Triangle Park. Education activities are coordinated through a multi-lab management arrangement. During the past year, the three RTP labs have worked to expand community outreach efforts through the following environmental education activities.

Minority Research Apprentice Program - ORD laboratories at RTP and Shaw University in Raleigh -- an Historically Black College and University (HBCU) -- have entered into a cooperative agreement to: provide training in science, engineering, and mathematics; encourage further study in these disciplines; Stimulate interest in careers in environmental sciences for minority high school students. The objectives of the program are to expose students to and involve them in a scientific and technical work environment by allowing them to interact with scientists, engineers, mathematicians, and scientific/engineering technicians

SRC Summer Fellowship Program - The SRC Summer Fellowship Program provides summer fellowships for science and mathematics teachers from secondary schools. The program was created to enhance science, mathematics, and engineering education to attract American youth to technology-based careers.

The program was developed by the Semiconductor Research Corporation's (SRC) Competitiveness Foundation and has been implemented as pilot projects in three States -- North Carolina, New Jersey, and California. Under the program industry government and universities form partnerships for improving science and math education. To date, 65 teachers in those three sites have had the opportunity to work with 18 hosting facilities and 5 universities in local partnerships for the professional development of the teachers and the reform of science, mathematics, and technology education in their schools.

Additionally, with input from the three pilot projects in North Carolina, New Jersey, and California, the SRC Foundation has developed a model program, called "Vision of Industry and Schools Initiating an Ongoing Network" (VISION). This model is unique in its approach to teacher enhancement in that it provides an ongoing partnership and a view of the real world uses of science and mathematics from several industrial and governmental perspectives. During the summer of 1991, the documentation of VISION will be field-tested in the same three sites to have as strong a model as possible for national implementation in 1992

Scientist Teacher Partnership - RTP participates in the Scientist-Teacher Partnership, developed by the State of North Carolina. The objectives of the program are to: stimulate elementary school students' interest in science and mathematics, implement activities to increase the interest of minorities and young women in science and engineering; and give practicing scientists and engineers opportunities to help improve science and mathematics education.

The Scientist-Teacher Partnership is a model Regional Partnership of the North Carolina Science and Mathematics Alliance, the mathematics and science education program operated by the N.C. Board of Science and Technology. In practice, the program involves scientists, engineers, mathematicians, and technicians visiting classrooms and conducting hands-on activities that show students science can be exciting. Additionally practicing scientists and engineers help develop hands-on science and mathematics tests, working with professional mathematics and science educators to offer enhanced in-service teacher training programs

Future Plans for RTP - Plans for expansion of RTP's math and science education efforts include developing innovative approaches to increase the interest of youth in environmental topics -- for example, computerized video games with environmental topics and youth forums; developing inexpensive systems to produce and distribute teaching materials and provide training and support to teachers and equip them to teach environmental science subjects; working with schools, colleges, and universities to integrate environmental topics into all core subjects and into school curricula; and fostering collaborative efforts with other departments and agencies -- such as the N.C. Departments of Public Instruction and Agriculture -- to broaden the range of outreach targets for environmental science information, while leveraging resources.

Cincinnati Laboratories

Math and science education activities conducted by the two EPA Laboratories in Cincinnati are managed and coordinated by the Center for Environmental Learning located in Cincinnati. Current and planned math and science education activities undertaken by the Center are described below.

Earth Day Activity Packet K-6 Grades - This packet was developed to encourage educators to make environmental education an integral part in the school curriculum. The Cincinnati Board of Education reviewed and approved the packet for distribution. Four thousand (4,000) Earth Day Activity Packets were distributed to Grades K-6 Greater Cincinnati and Northern Kentucky area school districts. Because the response from educators has been overwhelming, the package has been reprinted.

EPA Careers Honor Day Conference - The "EPA Careers Honor Day Conference" was held at the Cincinnati EPA facility. There were more than 70 students and teachers from 22 high schools within the Cincinnati area in attendance. This Conference was designed to increase the students' awareness of environmental issues, as well as stim[illegible] their interest in scientific and engi[illegible]ing careers.

School Science and Mathematics Association Annual Convention - The Center for Environmental Learning (CEL) coordinated EPA's participation at the School Science and Mathematics Association Annual Convention in Cincinnati on October 12 and 13, 1990. There were more than 4,000 science and math teachers. CEL had a booth in the exhibit area and distributed various educational materials.

Third Annual Education Convention - The Center for Environmental Learning staff manned an Environmental Education exhibit at the Third Annual Education Convention for the Cincinnati Public Schools. Environmental education material was distributed as well as a brochure about the "Always-A-River" curriculum teacher workshops.

"Always-A-River" Curriculum - K-12 U.S. EPA Cincinnati is currently involved in supporting the"Always-A-River" project which is sponsored by: the Humanities Councils of Illinois, Indiana, Kentucky, Ohio, Pennsylvania and West Virginia. This multifaceted project represents a partnership of individuals, organizations, businesses and industries, philanthropic foundations and government bodies to develop and share the story of the Ohio River as it relates to the American Experience.

Environmental Education Supplemental Curriculum - A specific charge of our Center for Environmental Learning is to develop for the area schools an interdisciplinary Environmental Education Supplemental Curriculum K-12, which will focus on water and the river in terms of ecology, conservation, pollutants, etc. The target date for completion is June 1991.

Teachers' Workshop - Teachers' Workshop was designed to introduce instructors to the "Always-A-River" Curriculum and how to use the manual was held at the Catholic Center, Erlanger, Kentucky, on January 24, 1991, and at the U. S. EPA Facility on February 12, 1991. Additional Workshops will be conducted in the Fall.

Future Activities - Future Plans include: An annual High School Youth Conference on the Environment beginning in November 1991; African American Science and Technology Festival - July 1992; Assistance in establishing environmental clubs at area high schools; and development of an Inner-City Environmental Education Module.

Athens Environmental Research Laboratory

The following is a brief description of Athens' math and science education efforts in three different time categories.

A. Ongoing

Partners-in-Education - Since the opening of the 4th Street Elementary School this year, ERL-Athens has entered a joint agreement with the school to sponsor numerous math and environmental-ecology educational activities e.g. environmental/ecology science camp, nature trail, faculty tours of EPA laboratory facilities, essay contests, science club, guest speaker lecture series, a newspaper column etc

B. Recently Initiated

Environmental Science Workshop - In the local community, there is a significant need for teacher skills training in the environmental science area from K-12. Development and concrete plans have begun for two science workshops, one for high school teachers and one for elementary school teachers.

Science Teacher Summer Internship - Through this effort, a grant is awarded to a Science teacher to work for a period of 8 weeks in the ESEP program at the ERL Athens to assist in the development of an environmental science curriculum for his/her grade level of teaching.

C. Future Start-up Projects

Public Science Awareness - Several projects are being planned to reach the general public. These include Parent-Teacher-Child Fairs, Science Fun Day, Environmental Science Mobile, Library Section for Environmental Science.

Students Scientists - Students Watching Over Our Planet Earth (SWOOPE) is a program created by the Los Alamos Nation Laboratory in cooperation with the U.S. Geological Survey to involve students in the science of data collection. We are investigating the possibility of a similar program at the Athens-ERL with emphasis on agricultural practices and their impact on the environment with students supplying data from their communities.

Modeling in Science - Manual - ERL Athens scientists and staff will develop a manual for classroom use at the high school level to demonstrate the concept of modeling scientific information and demonstrate the use of modeling in the research lab and in the community.

Risk and Assessment - Manual - ERL Athens scientists and staff will develop a classroom resource manual for demonstrating the concept of assessment and risk as applied to the scientific scenario and the everyday decision making process.

Gulf Breeze Environmental Research Laboratory, FL.

The Gulf Breeze Environmental Research Laboratory is involved in several science education activities described below:

- Several Gulf Breeze scientists serve on advisory panel to Pensacola Junior College, Milton Campus, to create an Environmental Science Technician curriculum.

- The Lab in involved in a Cooperative Agreement with the University of West Florida to establish an Honors Program in Marine Science for to provide an incentive for under-represented groups to undertake graduate training in marine sciences.

- Numerous laboratory scientists teach graduate and undergraduate courses at the University of West Florida; courses include aquatic toxicology, histology, biochemistry, etc.

- Post-Docs, including those from the National Research Council, receive technical training in various research disciplines by working with senior scientists at the laboratory.

- Graduate students from the University of West Florida are provided technical training in various scientific disciplines by laboratory scientists in an advisory role. Research required for graduate degrees is conducted at the laboratory under the guidance of laboratory scientists.

- Each year approximately 25 students from local colleges and universities receive unique technical experiences through the work study program.

- Assistance is provided to the Educational Research & Development Center of the University of West Florida to build and enhance environmental education (EE) capability at the local, state, and national levels. Activities include (1) development of an "in-service" teacher program to enhance EE teaching capability particularly for local and state educational institutions, (2) publication of the EE program development and structure for application in interested states, and (3) development of new EE program areas for instruction (e.g., biodiversity, bioremediation, biotechnology, etc.).

Robert S. Kerr Environmental Research Laboratory, Ada, OK.

The RS Kerr-ERL, participates in several science education activities at various levels of education. The major activities are as follows:

Minority Summer Intern Program - The RSKERL has submitted seven project descriptions for consideration this year to the Office of Exploratory Research Minority Summer Intern Program. The purpose of this program is to provide current minority fellows an opportunity to acquire experience in their areas of academic endeavor while, at the same time, provide short-term assistance to EPA in its environmental programs. The interests and training of students are matched to ongoing projects at EPA facilities. The fellows are placed in the facilities for up to 12 weeks to participate in these projects (undergraduate-graduate).

Chickasaw Indian Nation Project - The RSKERL has met with the Lieutenant Governor of the Chickasaw Indian Nation (CIN) and the President of East Central University (ECU) and are actively developing a program to stimulate interest in careers in science to provide opportunities for under represented students to gain experience in working with our scientists in environmental research. Plans are to implement a cooperative agreement with ECU and the CIN in the Spring of 1991. The major costs will be paid by EPA, but the total costs will be shared by all parties. The focus of the program will be on American Indian youth although it can not be limited to any specific group. RSKERL is in a truly unique situation to make a significant impact in this area due to being located in Oklahoma which has the largest American Indian population of any State. The tribal headquarters of the CIN is in Ada and the Chickasaws already have many youth programs suitable for interfacing with this program (undergraduate).

Stay In School Project - The RSKERL currently employs seventeen students under the stay-in-school (SIS) authority. The majority of these students are science majors and work as Physical Science Aids in the laboratories assisting professional scientists. These students must be enrolled full-time and must maintain an acceptable school standing while employed under the SIS program (precollege-undergraduate).

Partnerships with Local High Schools - Local high school Algebra II honor students visit the Laboratory each semester for four hours of observation--gas chromatography, microbiology, quality control and safety inspection, and an organics laboratory. This is a project of the class which focuses on possible vocational choices (precollege).

Misc. Other - Several RSKERL scientists and engineers participate as judges in the annual Oklahoma State Engineering and Science Fair held at East Central State University, Ada. Two RSKERL scientists are presently teaching a class on "Basic Ground Water" at East Central University (undergraduate). Area high school and university math and science classes periodically tour the Laboratory facility (precollege-undergraduate) RSKERL scientists participated in East Central University's seminar series on different aspects of environmental science (undergraduate).

Environmental Research Laboratory Duluth

ERL-Duluth, participates in several science education activities at various levels of education. The major activities are as follows:

Project Aquatics - Representatives of ERL-Duluth have a portable "suitcase" equipped with scientific information (i.e. scientific definitions, samples, microscope, question and answers) for elementary and junior high school level students. This Project will be expanded to target American Indian students. All project aquatic activities are presented to foster and develop the interests of students in the areas of science and mathematics.

ERL-D staff believe the elementary and junior high school level is an essential level to begin to foster this awareness and maintain interest.

Facility Tours - Various scientific staff members serve as laboratory tour guides for groups of undergraduate and graduate level students from technical colleges, Universities. The students are usually members of biology/chemistry/science classes or clubs expanding their knowledge and awareness of the science around them.

Seminars - ERL-D staff provide seminars and internships for students in science and medicine requiring hands-on experience or participation to complete necessary coursework.

Science Fairs - Elementary K-6 grade, Jr and senior HS 7-12 (held At the College of St. Scholastica). and College of St. Scholastica "Fast Camp". Students prepare math or science projects to display and be judged at the college.

"Fast Camp" "Fast Track to the Future" - Introduces girls 6-9 to careers in math and science. The week-long on campus workshop has grades 6-9, designing their own science and math projects.

AWIS - Associate for Women in Science Seminars and meetings - Science organization for post-graduate scientists - ERL-D staff conduct seminars and poster sessions.

UMD Med School - Center for Aquatic Toxicology post-graduate education courses. There are constant "teaching efforts" being conducted by staff members recognizing the need to encourage our students at all levels to seek education in the areas of science and mathematics.

Environmental Monitoring Systems Laboratory, Las Vegas.

EMSL-Las Vegas, participates in several science education activities at various levels of education. The major activities are as follows:

Partnership Program with Clark County School District - EMSL staff participate in school environmental programs; speaking at the district's 100 schools to over 7000 students and distributing thousands of pieces of literature; provided a special presentation for deaf students; conducts two class tours and hands-on demonstrations a month at the laboratory; and established an Environmental Science Fair Award furnishing judges and prizes.

Scholarship Fund Program - A joint effort of the laboratory personnel, the Clark County School District Print Shop and the University of Nevada Library to raise funds from the receipts of recycling consumer products.

Minority Engineering Program - In cooperation with the Department of Energy (DOE) funds are granted to the University of Nevada for environmental education of minority students.

Environmental Studies Program - EMSL has entered into a partnership with the University of Nevada, Community College of Southern Nevada, the Clark County School District, and the DOE to support a newly established Environmental Studies Program at the University of Nevada.

The program is designed to provide students with the basic skills essential for success in a career in environmental arena, with a depth of understanding in at least one area of specialization with an interdisciplinary perspective of the challenges facing our world. Study areas include: environmental management and policy, pollution control, conservation, environmental planning and education and natural resources management.

"National DOE-EPA Community College Outreach Program in Environmental Science and Technology" - A proposed pilot program linking regional community colleges with the DOE and EPA laboratories/operating contractors to provide direct and continuing assistance for:

- Development/enhancement of environmental science and pre-engineering curriculum targeting the preparation of students to 4 year institutions.
- Development and presentation of Environmental Hazardous Material Technician Curriculum at the 2-year degree/certificate level.

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PUBLIC PERCEPTION OF RISK

SENATOR MIKULSKI: The Science Advisory Board found that part of the reason EPA doesn't put its resources where the greatest risks are is due to the pressure of public perception of risks. Can you name the steps you are taking to use the Office of Environmental Education to change public perception of risk?

ANSWER: The Office of Environmental Education has been placed in the Office of Communications and Public Affairs in order to reach out to facilitate an outreach to all citizens including our youth with regard to critical environmental issues. As the Federal Coordinating Council for Science Engineering and Technology (FCCSET) committee has emphasized, it is important to create a context for public acceptance of the importance of education programs and an understanding of the complex issues related to the restricting of the education system. In addition, EPA will pursue public outreach programs which provide a context for better understanding of the risks related to the major environmental problems.

The Office of Environmental Education will be working with Agency communicators to better inform the public about major environmental issues and related risks. Realizing health risk education must begin at an early age, we are participating in a health risk education project designed to help students and community members better understand society's impact on the environment and the effects of the environment on their health. This initiative is a cooperative effort between Columbia University, Lawrence Hall of Science, University of California at Berkeley, University of Maryland, Brookhaven National laboratory and the Ponce School of Medicine in Puerto Rico. This project will provide the baseline data for our health risk education efforts in K-12.

CONSTRUCTION GRANTS

SENATOR MIKULSKI: Why are you requesting only $1.5 billion -- $300 million less than what is authorized -- for the state revolving fund program, particularly in light of the enormous need for construction grants and the fact that the program is nearing its phase-out?

ANSWER: Given the Agency's many competing priorities, the request will continue to establish the long-term viability of SRF programs and ensure States' ability to provide financial assistance to communities for construction of treatment facilities. The SRF program is not designed to provide assistance to address all these needs and neither was the construction grants program. Our basic policy has always been that the cost of facilities should be borne by the users and that the Construction Grants and State Revolving Fund programs are there to assist but not replace this responsibility of the user community. In addition to the $1.5 billion for state revolving funds, the budget requests an additional $300 million for secondary treatment for cities with the largest secondary treatment needs in order to expediate completion of treatment projects at these cities, which have recently been identified by NOAA as continuing to have significant harbor contamination problems. Therefore, the Administration is requesting a total of $1.8 billion for domestic wastewater treatment.

SENATOR MIKULSKI: When will the 1990 "Needs Survey" be completed?

ANSWER: A draft of the 1990 "Needs Survey" is currently being reviewed by States and Indian Tribes. We expect to submit a final report to Congress in the near future.

SENATOR MIKULSKI: Can you tell us what the new estimate of wastewater construction needs will be?

ANSWER: It would be premature and possibly misleading to release estimates from the survey before the review by States and Indian Tribes, mentioned above, is completed.

SENATOR MIKULSKI: Your budget justification (p.3-5) states that the agency is implementing a closeout strategy that will effectively phase out the construction grants program. What does this mean?

ANSWER: At the beginning of Fiscal Year 1991 there were 5,841 active construction grant projects with grant amounts of $34 billion. This amounts to 76% of all the funds awarded for construction projects in this program since 1972. At historical rates, it will take 10 to 15 more years to close-out these projects (FY 2001-2006). The completion-closeout strategy seeks ways to: (1) accelerate closeout processes through application of quality management initiatives, (2) administratively completes all projects by the end of FY 1994, and (3) maintain adequate levels of resources and retention of staff expertise in the regions, states, and Corps of Engineers to complete the program by FY 1995.

SENATOR MIKULSKI: How do you propose that states and localities pay for the remaining $80 billion in need -- raise state and local property taxes?

ANSWER: EPA has on many occasions held meetings and produced documents to help state and local governments identity alternative financing mechanisms. It is not the Federal government's role to tell other levels of government how they should raise funds to support their needs. The Clean Water Act of 1987 provided for the phase out of the construction grants program through a plan designed to transition toward revolving funds and eventual self-sufficiency. The Federal program of financial assistance for wastewater was never intended to provide Federal funding to meet all State and local needs but as a mechanism to assist in meeting the highest priority treatment needs.

SENATOR MIKULSKI: How are states to do this when many are already running deficits that have required them to cut spending or raise taxes?

ANSWER: The 1987 Act provided for a mechanism for additional assistance by authorizing grants to capitalize State Revolving Funds (SRF). The SRF program will provide a permanent source of funds for localities to utilize in addition to their own financing schemes. Some simple options available to states are leveraging their SRF assets and charging user fees.

SENATOR MIKULSKI: Why have you requested special appropriations for sewage treatment grants to Seattle, San Diego, and a number of other cities?

ANSWER: These five cities have the largest unmet secondary treatment needs in the nation. In addition these projects complement the President's Coastal America Initiative. We are attempting to help address our concerns for these environmentally sensitive near coastal areas by providing some targeted funding to address these major sources of coastal pollution. Our proposals are directed toward specific projects that will result in significant environmental improvements in high priority near coastal areas.

SENATOR MIKULSKI: Why are these projects more worthy of appropriations than any other sewage treatment construction grant projects?

ANSWER: They have the greatest needs and address high risks. The five cities represent unique high priority coastal areas with projects which will result in significant improvements to coastal waters'. Additionally, these cities were cited in a recent NOAA study as still having higher levels of chemical contaminants in their bays and estuaries, while conditions in most of the nation's coastal areas are improving.

SENATOR MIKULSKI: Are all of these projects authorized?

ANSWER: Special funding for Boston Harbor and the Tijuana project are authorized in the Clean Water Act Amendments of 1987. There is no special authorization for the other four cities. This effort is intended to supplement our efforts to improve critical coastal habitats.

CONSTRUCTION GRANTS

SENATOR MIKULSKI: In an answer prepared to questions submitted following the FY 91 Senate Appropriations hearing, EPA said that the total federal share of the Tijuana project would be $132 million (p. 56). Is this still the case?

ANSWER: The most recent cost estimates developed by the U.S. International Boundary and Water Commission (IBWC) for the Tijuana project indicate that the total project costs will be $168 million. The U.S. share will be approximately $152 million of which $47 million has been already been appropriated. The IBWC may request additional funds to support operations and maintenance and related activities.

SENATOR MIKULSKI: If the full $100 million requested in FY 92 is appropriated, a balance of $16.3 million will remain, is that correct?

ANSWER: Although much of the project is yet to be designed the most recent estimates indicate that $120 million will be needed in FY92 and beyond since $47 million has been appropriated through FY91. Of this $120 million, $16 million is to be paid by Mexico with funds loaned to Mexico by the State Department through the IBWC.

SENATOR MIKULSKI: It has been reported that very few states are using the capitalization grant funds to leverage assistance from their state revolving loan funds, that is, to issue additional state debt and market loan programs to their local communities to increase the size of the state's SRF over the long term. Why is leveraging not occurring to a greater extent?

ANSWER: Currently 10 States, out of 50 States and Puerto Rico with State revolving loan fund programs, are using the capitalization grant funds to leverage assistance from their SRFs; about 20 additional States plan to leverage in the near future. More states have not already leveraged because States have wanted to first establish their SRF programs as simple loan programs before moving into more complex financial structures. Additionally, because of the cost associated with borrowing funds and tax laws which impose restrictions on holding idle tax-exempt bond funds, States will not leverage until there are a sufficient number of recipient communities ready to proceed with projects.

EPA has provided technical assistance to States to develop and tailor leveraging plans which meet their specific needs and has presented workshops around the country to States to evaluate different leveraging strategies.

SENATOR MIKULSKI: How will the lack of state leveraging affect states' abilities to meet their sewage construction needs?

ANSWER: Sewage construction needs vary between States. Some States may not need to leverage to meet needs. For some States, leveraging will be necessary; in others, leveraging to the extent typically seen in States will still be inadequate.

In an effort to meet the sewage construction needs of their financially disadvantaged communities, some States are issuing loans at interest rates which are far below market rates for borrowing funds. In such instances, a State may not be able to afford the costs of leveraging unless it takes other steps to compensate for this subsidy of some communities.

SENATOR MIKULSKI: EPA's budget justification says that the cut in funds for the SRF program reflects "progress made in the administration's effort to ensure SRFs will be adequately capitalized by 1994. By "adequately capitalized," do you mean that SRFs will be able to fund all of the nation's wastewater treatment construction needs?

ANSWER: Wastewater treatment has always been primarily a state and local responsibility. Neither the construction grants program nor the SRF program were provided funding levels to address the nation's total wastewater treatment construction needs. Local financing has always played a major role in meeting needs. The term "adequately capitalized" refers to the ability of the Federal capitalization grants to provide seed money through 1994 for States to establish revolving loan funds which would enable States to assume responsibility for designing, funding, and implementing wastewater treatment programs to address States' needs. States are expected to supplement Federal funds with State sources of capital, such as leveraging, State appropriations, levying special fees, or taxes. However, at a minimum, we expect Federal funds alone will provide enough resources to meet all secondary and advanced treatment needs.

SENATOR MIKULSKI: What are the agency's plans to deal with the probability that many communities, which previously would have received grants under the Title II program, will not be able to repay loans under the SRF program?

ANSWER: Loan default experience with other Federal (such as, Farmers Home Loan program) and State loan programs have been and are expected to remain very low. The SRF program was designed to afford States a great deal of flexibility in structuring their programs to be responsive to the needs of communities with differing abilities to repay loans. To increase the probability of repayment, many States match loan terms with the community's ability to repay by varying interest rates and length of repayment period. Other State loan or grant programs often supplement SRF assistance.

SENATOR MIKULSKI: Can states realistically be expected to shoulder this additional burden without any continued involvement by the federal government after 1994?

ANSWER: Federal involvement was originally supposed to be a one-time effort to help states solve an $18 billion backlog. Since then, Federal costs have more than tripled. It is long overdue that the primary financial responsibility for wastewater treatment revert to the states. The 1987 Clean Water Quality Act recognized this, and set the transition in motion. The transition from a major Federal financing role for wastewater treatment plants began in 1981 with the reduction of Federal share and eligible categories. Many States have responded with innovative grant and loan programs and greater than required SRF capitalization. EPA will continue to work with States to develop SRFs which are responsive to the needs of the communities in their States and to share experiences from other States.

NONPOINT SOURCE GRANTS

SENATOR MIKULSKI: Nonpoint source pollution is a primary cause of water problems -- EPA's own comparative risk report said that nonpoint sources pose more serious ecological risks than point sources. Yet EPA's budget request decreases nonpoint source grants by more than 50% for a total of $23.75 million in fiscal year 1992; nonpoint source grants comprise less than 6 percent of EPA's water program budget request. Why is EPA's budget so heavily skewed to point sourceS of water pollution?

ANSWER: A series of reports by the Science Advisory Board have documented that nonpoint source (NPS) pollution causes or contributes to a relatively large percentage of waterways still at risk because they are not meeting water quality standards or are otherwise impaired.

NPS problems have recently become more significant in part because EPA and the States have successfully focussed their attention and resources over the last 20 years on controlling point sources of water pollution. Our success in point source control must be maintained, which requires a continuing and sustained investment in a wide variety of programs.

The Agency's FY 1992 Section 319 grants request (which is a $10 million increase over our FY 1991 request) must be viewed in the context of the FY 1990 and 1991 appropriations already providing $89.5 million for Section 319. Given the emerging nature of many States' NPS programs and the need to assure that NPS monies receive adequate EPA and State oversight, we believe our FY 1992 request is prudent and will result in measurable progress in reducing NPS risks.

Furthermore, it must be remembered that NPS is fundamentally a local problem that is most amenable to local solutions. Since much of the nation's non-point source pollution is from agriculture, the 1990 farm bill authorized, and the President requested substantial sums to implement conservation plans, the Conservation Reserve Program, and other cost-sharing programs to reduce NPS pollution. The Soil Conservation Service and Extension Service are putting greater emphasis on providing technical assistance to control NPS pollution. The Federal role is to enable state and local governments to devise and implement solutions to NPS pollution, a role that is adequately supported by the agency's request.

LOCAL NONPOINT SOURCE FUNDING SOURCES

SENATOR MIKULSKI: EPA has said that nonpoint source controls should be primarily a state or local responsibility. What means do local governments have to pay for nonpoint source controls?

ANSWER: Local governments have a wide variety of traditional as well as alternative and creative means to fund nonpoint source control activities. Some approaches currently being used include general revenues; creation of utilities that perform nonpoint source controls and have the power to collect fees from served populations; dedicated fees and taxes (e.g., on the sale or use of fertilizers or pesticides); and license fees (e.g., for permits to engage in activities such as construction). State revolving funds established by Congress under Title VI of the Clean Water Act may also be made available by States for the use of local governments in addressing nonpoint source pollution, once secondary treatment objectives are satisfied.

To assist local communities in developing reliable approaches to fund nonpoint source control activities, EPA reports regularly on successful approaches being used around the country in the widely circulated Nonpoint Source News Notes. In addition, EPA has published several guidebooks on both State and local financing of nonpoint and other related programs, including Funding of Expanded Uses Activities by State Revolving Fund Programs (August 1990), Local Financing for Wellhead Protection (June 1989), and Financing Marine and Estuarine Programs: A Guide to Resources (September 1988). EPA's National Estuary Program has also produced highly detailed analyses of local, regional, and state options for financing control activities in specific estuaries.

NONPOINT SOURCE GRANTS: DEMONSTRATING NEW TECHNOLOGIES

SENATOR MIKULSKI: To what extent are projects that have been funded with Section 319 grants being used to demonstrate new technologies to manage nonpoint source pollution? What steps is EPA taking to encourage greater use of new technologies and management options?

ANSWER: A substantial proportion (close to one-half) of Section 319 funds were used to fund demonstration projects. EPA expects to continue to fund demonstration projects in the Section 319 program.

It is important to note that a considerable and growing body of knowledge supports the conclusion that many highly effective and cost-effective practices are already available to control nonpoint source pollution. For example, conservation tillage and nutrient management are two widely recognized and increasingly used means to limit off-site pollution of waters by sediments and nutrients, and they often have been found to either cost very little or, in some cases, provide a net economic benefit to the farmer through savings in labor, energy, and fertilizers. These methods, while not "new technologies", still require further research and demonstration to verify and quantify estimates of their effectiveness in a wide variety of geographical, hydrological and production settings. EPA expects, therefore, that some of the important demonstration projects will involve refinement of some existing techniques, while other demonstration projects will address entirely new approaches.

NONPOINT SOURCES: FUNDING THROUGH STATE REVOLVING FUNDS

SENATOR MIKULSKI: In the past, EPA has maintained that states are authorized to use money from their State Revolving Funds to support nonpoint source pollution activities. How many states are funding NPS activities through their SRF programs?

ANSWER: States are specifically authorized to use State Revolving Funds for Nonpoint Sources for expanded uses, including nonpoint source control. EPA has recently published Funding of Expanded Uses Activities by State Revolving Fund Programs (August 1990), to provide guidance to States on effective methods to use SRFs to fund NPS and stormwater control activities.

States have initially focussed upon traditional construction grants needs in developing intended use plans for SRF funding. During this initial period from 1987 to 1990, States were developing their nonpoint source programs. By 1990, all States had approved NPS assessments and approved NPS management programs or approved portions of programs. As a result, some States have recently begun to use, or adopt plans to use, SRF funds for NPS control activities.

During the past year, California, Washington, and Wyoming have begun to use SRF for NPS control. Other States have drafted plans to begin using SRF for NPS control, including Delaware, North Dakota, and South Dakota.

BUDGET FOR LEAD-BASED PAINT ABATEMENT

SENATOR MIKULSKI: Why are no increases requested for lead paint work in your Toxic Substances Office (OTS), particularly when your operating budget is going up by 7% and when this is one of the greatest threats to children?

ANSWER: For a number of years, OTS has been involved in risk assessment and risk management activities with respect to lead exposure. Since 1989 EPA has been cooperating with the Department of Housing and Urban Development (HUD) to pursue studies and jointly develop abatement programs to address risks to human health caused by exposure to lead-based paint.

The OTS lead program in 1992 will include the continuation of efforts under the EPA/HUD memorandum of understanding and a broad regulatory focus on all environmental lead exposure. The FY 1992 request for $4 million in abatement, compliance, and control (AC&C) funds represent the extension of the Congressional add-on received for FY 1991. There are also 4.0 workyears requested in FY 1992, extending the Congressional add-on of FY 1991 and adding an additional 1.5 workyears. These resources will support efforts by OTS to address the matter of lead exposure in the environment, including the routes of exposure most likely to affect children: lead-based paint in dwelling interiors, lead in the soil around the home, lead in interior dust, and lead in drinking water.

SENATOR MIKULSKI: Please provide a breakdown for the record of the $4 million budget request for lead-paint work in the Office of Toxic Substances. How much is for worker training? How much is for contractor training, laboratory quality controls, etc.?

ANSWER: The toxic substances program in the Office of Pesticides and Toxic Substance (OPTS) provides 9.0 workyears and approximately $4 million for activities relating to lead exposure in the environment. The Agency will continue to explore and identify hazards of lead in drinking water, soil, and dust through research support and public education.

In particular, OPTS in now conducting or planning several major areas of lead activity which are included in the FY 1992 budget request. These activities are (1) Pursue a multi-media lead control strategy, (2) Reduce the use of lead in new and existing products, (3) Substantially reduce the exposure of young children to existing sources of lead. Research and program efforts on lead-based paint identification and control will be highlighted. This will include studies on abatement efficacy and laboratory measurement, (4) Provide leadership for the Organization for Economic Cooperation and Development (OECD) lead risk management efforts, and (5) Focus on technology transfer through development of model training materials and establishing a training and information dissemination network.

WORKER TRAINING

SENATOR MIKULSKI: According to the Science Advisory Board (SAB), worker exposure to chemicals in industry is listed as the second greatest risk to human health. Why isn't EPA placing a greater priority on worker training?

ANSWER: Although EPA is very concerned about worker training, the Agency feels that OSHA has the primary responsibility for the workplace. Over the next year EPA will be devoting significant resources to this area. Our first effort will be the development of a model workers training course followed by the distribution of funds directly to worker groups to conduct this training.

FUNDING FOR WORKER TRAINING

SENATOR MIKULSKI: What is the status of the $1.25 million provided to EPA in FY 91 for worker training?

ANSWER: EPA has met with the Department of Housing and Urban Development (HUD) and the Occupational Safety and Health Administration (OSHA) to discuss common goals for distributing the FY 1991 funds earmarked for worker training. In addition, within the next month EPA will conduct a meeting with all interested labor groups to discuss their needs as well as the Agency's goals for the money.

EPA also intends to develop a model worker training course in FY 1991.

SENATOR MIKULSKI: When will the funds be obligated?

ANSWER: It is anticipated that the bulk of the worker training set aside will be obligated when the model training materials are available.

AGENCY RESPONSIBLE FOR LEAD PAINT POISONING

SENATOR MIKULSKI: EPA had primary responsibility for radon in homes and asbestos in buildings. Wouldn't this indicate that EPA should have direct responsibility for lead paint poisoning as well?

ANSWER: Through its efforts on both radon and asbestos, EPA has gained technical expertise and experience that is relevant to help develop a national program in response to the environmental health hazard posed by lead-based paint. Many of the program design issues are similar. This experience is being used; we are developing such necessary components as lead-based paint abatement training courses and delivery mechanisms, a lab accreditation program, improvements in measurement technology, and an improved risk communications strategy. EPA is working very closely with the Department of Housing and Urban Development (HUD) and other agencies to assure that these critically important components are indeed being put in place.

SENATOR MIKULSKI: Should EPA be the lead Federal agency dealing with, and enforcing standards on lead?

ANSWER: In EPA's lead strategy, the Agency has taken a leadership role in the technical arena as it relates to paint and other lead exposure routes. However, we are mindful of the Congressional mandates given to HUD, the Occupational Safety and Health Administration's (OSHA's) responsibilities and interests and to the expertise in other agencies.

SENATOR MIKULSKI: Isn't EPA more qualified than HUD in most of the technical areas: laboratories, technical guidelines, cleanup technologies, worker training, contractor certification?

ANSWER: EPA is working with all Federal agencies involved in lead-based paint activities to develop a comprehensive and cost-effective effort to guide the necessary research and programmatic activities. This leadership role will guarantee that lead-based paint in housing is properly addressed.

LEAD ACCREDITATION PROGRAM

SENATOR MIKULSKI: EPA is in the process of developing a lead accreditation program to ensure that individuals working in lead abatement are properly trained. When will EPA's certification course for lead abatement workers be available by approved training providers?

ANSWER: EPA is in the process of developing a detailed workplan for the development of an accreditation plan as requested by Congress. EPA has committed to developing a series of model training materials for inspectors, abatement supervisors, workers, and project designers. The first three of these are expected to be completed in 1991. Additionally, EPA has agreed to implement a network of University Centers to assure that the model courses are available nationwide.

SENATOR MIKULSKI: In developing this course, is EPA coordinating with the Occupational Safety and Health Administration (OSHA)?

ANSWER: Yes. OSHA is a member of EPA's lead-based paint task force which has given a great deal of attention to this issue. In addition, EPA has on several occasions met separately with OSHA to discuss development of the worker training course.

SENATOR MIKULSKI: Which agency will administer the program? Isn't EPA most qualified?

ANSWER: The Agency has taken a leadership role in the technical arena as it relates to paint and other exposure routes. However, we are mindful of the Congressional mandates given to HUD, OSHA's responsibilities and interests, and the expertise of other agencies. EPA is working with all Federal agencies involved in lead-based paint activities to guide the necessary research and programmatic activities.

SENATOR MIKULSKI: How much would it cost EPA to administer this program?

ANSWER: EPA has not costed out such a program. The Agency is in the process of developing a detailed workplan for the development of an accreditation plan as requested by Congress.

LABORATORY CERTIFICATION PROGRAM

SENATOR MIKULSKI: How does EPA plan to address the need to develop standardized protocols and reference materials for laboratories which test lead?

ANSWER: The issue of lead-based paint is a multi-media problem and hence must be addressed by a number of Federal agencies. EPA is pursuing an aggressive research program for the laboratory analysis of lead in a variety of environmental media. This program involves other Federal agencies including the National Institute of Standards and Technology (NIST), the Department of Housing and Urban Development (HUD), and the Center for Disease Control (CDC).

There are laboratory protocols, certain reference materials, and laboratory specific quality control programs. However, these capabilities have not been developed specifically for lead-based paint and, thus, cannot be expected to produce as high a quality data as is needed by this program. Current capabilities in these areas are more fully described in HUD's Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing published in April, 1990.

Specifically, the guidelines reference laboratory protocols that were initially developed for other media, such as water, and modified for the analysis of lead in paint, soil, and dust. Reference materials, again primarily developed for other purposes, have been developed and are available, but in extremely limited quantities, from NIST.

The guidelines also contain a list of laboratories capable of performing analyses of lead in various media. There are reference laboratories with a solid history of excellent performance in well-established proficiency testing programs for lead in various media. The programs include EPA Contract Laboratory Program (CLP), NIST, and American Industrial Hygiene Association (AIHA) proficiency testing program for lead analysis. While these programs are performing well, they are not expected to be able to completely keep up with the expected increase in demand for laboratory services.

EPA's Office of Toxic Substances and Office of Research and Development (ORD) are working closely with HUD and NIST to improve the state of laboratory testing to insure that laboratory tests of lead in various media are standardized, reliable and of acceptable quality.

In FY 1992 EPA/ORD proposes to conduct research on the development of Standard Reference Materials in cooperation with NIST; Performance Testing Materials and QA/QC Laboratory Protocols; improved analytical methods and methods intercomparison analyses on pre-abatement and clearance measurement techniques for dust and paint; and on laboratory accreditation requirements.

SENATOR MIKULSKI: How much would it cost EPA to administer this program?

ANSWER: EPA estimates that it may cost approximately $1.0 million for as many as three years; however, these estimates are preliminary at this point and are subject to further consideration. The Agency continues to be active in the interagency discussions which have not yet determined the implementation of the program. In addition, NIST's National Voluntary Laboratory Accreditation Program (NVLAP) estimated it would require approximately $500,000 to establish a laboratory accreditation program through NVLAP, assuming protocols and reference materials are available.

EPA COORDINATION WITH OTHER AGENCIES

SENATOR MIKULSKI: How is EPA coordinating with all agencies involved in lead paint abatement -- HUD, HHS, CDC, OSHA?

ANSWER: EPA is coordinating its lead-based paint activities with a number of Federal agencies. The interagency Task Force, co-chaired by EPA and the Department of Housing and Urban Development (HUD), operates to ensure that this coordination takes place in the most effective and efficient manner possible. Other Federal agencies actively participating in the Task Force include the Center for Disease Control (CDC), the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), the Agency for Toxic Substances and Disease Registry (ATSDR), the National Institute of Standards and Technology (NIST), the Public Health Service (PHS), and the Consumer Product Safety Commission (CPSC). The Task Force recently began an effort to investigate the most appropriate means of coordinating lead-based paint activities called for in the HUD Comprehensive and Workable Plan, the CDC Strategy for the Elimination of Childhood Lead Poisoning, and the EPA Strategy for Reducing Lead Exposures.

SENATOR MIKULSKI: Has EPA reviewed OSHA's recent publication "Working with Lead in Construction"?

ANSWER: OSHA is currently completing their publication, "Working with Lead in Construction" and has asked EPA to review the document. We expect that this review will be completed within the next few weeks.

FUNDING FOR LEAD RESEARCH

SENATOR MIKULSKI: EPA is requesting $2,580,000 for lead research. No funds were provided in FY 1991. How did the hiatus in funding affect the lead research program?

ANSWER: Despite the hiatus in funding, we have made progress toward: a) the development of standardized methods for the detection and measurement of lead in paint, dust, and soil; and b) development of QA/QC protocols and specifications for certification programs of contractors and laboratories to do such measurements in support of lead-based paint or soil-lead abatement efforts. With current funding we will increase efforts in a) and b) above to demonstrate the Agency's full support of getting the proper research and demonstration accomplished regarding lead research. The FY 1992 request for lead research is $2.4 million.

In FY 1991, there were carryover monies from FY 1990 which allowed activities initiated in FY 1990 to carry forward into FY 1991.

MORE EFFECTIVE LEAD-BASED PAINT ABATEMENT

SENATOR MIKULSKI: How is EPA addressing the need to make lead-based paint abatement more effective and affordable?

ANSWER: Finding lower cost abatement methods that function in eliminating lead exposure hazards in the home is a high priority at EPA. As part of the EPA lead-based paint program, new encapsulation technology and methods of assessing encapsulant performance are being developed. In addition, EPA is working closely with industry groups through a Government/Industry Cooperative effort and with states such as Massachusetts in determining the performance attributes and criteria for assessing the performance of commercially available and new encapsulant coatings.

Exposure assessment requires a collaborative effort including EPA's experience in exposure and risk issues, the Department of Housing and Urban Development's (HUD's) expertise and the National Institute of Standards and Technology's (NIST's) experience in building materials. A significant aspect of the EPA lead strategy is to invest up-front in low cost abatement and control methods and in ongoing repair and maintenance programs. This development activity will provide the necessary techniques for states and the private sector to accomplish the enormous job of abating the nation's housing stock of lead-based paint.

LEAD PAINT ABATEMENT PRODUCTS

SENATOR MIKULSKI: Private companies are already marketing more than 25 new products, encapsulants, strippers, and spot-test kits. Which agency is responsible for verifying that these products work, and are safe to use?

ANSWER: As part of the EPA lead-based paint program, new encapsulation technology and methods of assessing encapsulant performance are being developed. EPA is greatly involved with the Commonwealth of Massachusetts in the development of a process for the approval of encapsulant products for use in the Commonwealth for the abatement of lead-based paint. This process could be used by other states to use in approving the use of encapsulants. EPA is working closely with the National Institute of Standards and Technology (NIST) and the Department of Housing and Urban Development (HUD) in the development of field test kit methodology; the Consumer Product Safety Commission (CPSC) is involved in the evaluation of test kits for consumer use. All of these efforts will help ensure that effective and safe products are available for abatement activities.

SENATOR MIKULSKI: How many of those products now on the market have been tested by Federal agencies?

ANSWER: None of the products currently on the market have been tested by Federal agencies. However, EPA is greatly involved with the Commonwealth of Massachusetts in developing a process for approving encapsulant products for use in the abatement of lead-based paint. This process could also be used in other states to approve encapsulant products used in lead-based paint abatement activities.

DEBRIS IN LEAD PAINT ABATEMENT PRODUCTS

SENATOR MIKULSKI: Is the debris generated in lead paint abatement products handled as "hazardous waste"?

ANSWER: Debris generated in lead paint abatement projects would be considered "hazardous waste" if the toxicity characteristic under the Resource Conservation and Recovery Act (RCRA) is triggered. The Agency is currently studying the problem to determine whether or not various types of abatement debris fail the toxicity characteristic test.

The Department of Housing and Urban Development (HUD) was not able to collect all of the samples that were originally requested by EPA because the Farmers Home Administration (FHA) Demonstration Project was nearing completion. As a result, some uncertainty remains in the determination of hazardousness in some of the larger volume waste categories, such as bulk woodwork. EPA plans to collect additional debris samples from HUD's FHA Demonstration Project to address this uncertainty. In addition, a more complete and thorough cost analysis of this issue will begin.

EPA is required to appropriately deal with the disposal of lead-based paint wastes. The Agency has a number of research efforts underway to study alternative methods to dispose of this debris. This includes the application of solidification/stabilization processes and vitrification technology to lead-based paint wastes. We are hopeful that these may lead to cleaner and safer methods of waste disposal. In addition, EPA is working cooperatively with the lead industry to study the recycling potential of lead-based paint wastes into lead smelter wastes streams.

SENATOR MIKULSKI: EPA was directed in report language to provide clear guidance to housing authorities on this issue more than two years and has not yet done so. Why? When will EPA?

ANSWER: EPA was directed by Congress to report on the applicability of the Resource Conservation and Recovery Act's (RCRA's) criteria for hazardousness to wastes or debris generated from lead-based paint abatements by January 1, 1990. In response to this request, waste samples were collected for EPA during HUD's FHA Demonstration Project in 1990 and chemically analyzed to determine 1) the types of the debris generated from these abatements, 2) the degree to which they should be considered hazardous waste, and 3) the costs associated with their disposal.

A final report is currently under review by the Agency. It contains the results of the analyses of bulk wood (i.e., doors and windows) and plastic sheeting samples as well as additional information on the costs associated with disposal. When released, EPA plans to issue this document as an initial guidance document that can be used by abatement contractors.

DEMAND FOR ASBESTOS LOANS AND GRANTS

SENATOR MIKULSKI: There is an enormous demand for Federal assistance for asbestos loans and grants, as illustrated by the fact that in 1990 only about 10 percent of all qualified applications were funded. Given that number of unfunded qualified projects, how can the agency maintain that there is no need for Federal appropriations?

ANSWER: By 1991, the Asbestos School Hazard Abatement Act (ASHAA) would have provided over $290 million in loans and grants to the most financial neediest schools. As schools learn how to better manage asbestos in place, the need for abatement will decrease. On the other hand, nonfriable materials can and will become friable over time increasing the need for abatement action. EPA, however, believes decisions on the management of asbestos, including funding of abatement programs, are most appropriately handled at the State and local levels.

ASBESTOS IN SCHOOLS MANDATE

SENATOR MIKULSKI: If the Agency believes that the risks involved with asbestos do not warrant Federal funding, why doesn't EPA propose to repeal the mandate that schools get rid of asbestos?

ANSWER: The Asbestos School Hazard Abatement Act (ASHAA) program is not exclusively a removal program. It is an asbestos management program. The Asbestos Hazard Emergency Response Act (AHERA) does not mandate the removal of all asbestos from schools. Most asbestos-containing materials in buildings can be managed in-place, particularly if the asbestos is undamaged, not likely to be disturbed, and not exposed to building occupants. EPA believes that a strong asbestos management program as outlined in AHERA is critical to protect the health and environment of students, teachers, and workers in our nation's schools. As part of that, EPA has published in July of 1990, a guidance document which details ways of managing asbestos in place.

ERADICATION OF ASBESTOS IN SCHOOLS

SENATOR MIKULSKI: What is the Agency's long-term plan to bring this problem to a close and fully eradicate asbestos in schools? Will your strategic plan contain your solution to deal with asbestos?

ANSWER: EPA is committed to the continued implementation of the Asbestos Hazard Emergency Response Act (AHERA) asbestos management program. The Agency believes that this is the strategic plan that will minimize exposure to asbestos in the nation's schools.

ALTERNATIVE FUNDING FOR ASBESTOS

SENATOR MIKULSKI: What is EPA doing to help schools find alternative funding to deal with asbestos in the absence of Federal financial assistance?

ANSWER: EPA has distributed a total of $245 million in Federal funding to schools for the abatement of asbestos since 1985. An additional $46.3 million will be distributed in FY 1991. In addition to this funding, EPA provides many technical assistance, training, and state support activities to assist schools in meeting their AHERA responsibilities. The Agency believes that this is the appropriate Federal role in dealing with the asbestos in schools problem. Thirty-two states have enacted asbestos-related laws and nearly half of the states have financing provisions in the laws. The management of asbestos, either in place or through abatement action can be best handled at the State and local levels.

HEALTH EFFECTS INSTITUTE

SENATOR MIKULSKI: The Health Effects Institute has received a total of $6 million for FY 89-91 to establish a scientific consensus on asbestos exposure levels and appropriate abatement methods. You are requesting another $2 million for this activity in 1992. This will be the fourth year and a total of $8 million will have been provided. How many more years do you anticipate EPA will fund this project?

ANSWER: The Health Effects Institute-Asbestos Research (HEI-AR) has currently received $4 million from EPA. EPA provided $2 million to HEI-AR in both FY1989 and FY 1990.

EPA has requested an additional $2 million for HEI-AR in 1992. Although this request would put EPA's total contribution at $7.25 million ($1.25 million over the $6 million that the Agency originally agreed to provide HEI-AR), it is important to note that the original $6 million was not totally a need-based figure. It reflected what EPA and private sources (which agreed to contribute a matching $6 million) were willing and able to commit to HEI-AR at that time.

SENATOR MIKULSKI: When will we receive the final product?

ANSWER: HEI-AR's first product, a comprehensive review and analysis of the scientific literature on asbestos, is scheduled to be available at the end of April 1991. The actual research projects that HEI-AR is overseeing are just now getting underway. Results from these projects will become available over the next one to three years.

SENATOR MIKULSKI: Will the report attempt to bring together all the varying views on the health effects to exposure to different types of asbestos?

ANSWER: It is our understanding that HEI-AR's scientific literature review (due in late April 1991) will address the varying views on the health effects to exposure to different types of asbestos.

CHESAPEAKE BAY/NUTRIENT REDUCTION GOAL

SENATOR MIKULSKI: Some of the goals of the Chesapeake Bay Implementation Strategy are not being met. For example, efforts to control agricultural runoff are happening too slowly to reach the 40 percent nutrient reduction goal -- the centerpiece of the Bay cleanup strategy. What greater efforts are needed of EPA and the Bay states to meet this goal and how much will it cost?

ANSWER: The independent Nonpoint Source Evaluation Panel concluded in its report submitted to the Chesapeake Executive Council in January that the year 2000 nutrient reduction goal would not be met at the current rate of progress. That report has since been subjected to a serious review by the program's Nonpoint Source

Subcommittee which has been asked to frame an appropriate response. Their initial response, scheduled for June 1991, is expected to entail numerous changes to each of the state's programs to increase the rate of nutrient reduction. Among the remedies being discussed are improved targeting, more thoughtful use of program marketing, and the more aggressive control of animal wastes.

It should be remembered that the review of nonpoint source control programs was a scheduled element of a broader 1991 review of both the nutrient reduction goal and the means of achieving it. While the pace of nonpoint sources controls must be increased, we know that other elements of the strategy, such as control of phosphorus from point sources are well ahead of schedule. We know, for instance, that point source controls on phosphorus have nearly reached the levels planned for the year 2000, that nitrogen is being removed from seven of the nearly 50 municipal treatment plants that are planning it, and that fertilizer use (a major source of nitrogen) is down 30 percent from the levels in 1980. Most importantly, phosphorus levels in the Bay are down 20 percent from 1985 levels.

EPA COORDINATION WITH SOIL CONSERVATION SERVICE

SENATOR MIKULSKI: There is also some concern that the agricultural runoff programs are not targeted to address priority areas. How is EPA coordinating with the Soil Conservation Service and other federal agencies to ensure that nutrient problem areas are the focus of these programs?

ANSWER: While the targeting systems of the programs intended to reduce nutrients are designed and implemented by cooperating state agencies, EPA is working closely with the Soil Conservation Service to ensure that adequate technical assistance is available as each of these programs requires.

Other USDA agencies assist in this effort. The Cooperative Extension Service provides assistance with nutrient management advice. The Agricultural Stabilization and Conservation Service (ASCS) has a costshare program similar to the state programs, and the U.S. Forest Service is actively involved in promoting reforestation programs useful to the control effort.

CHESAPEAKE BAY ACTIVITIES

SENATOR MIKULSKI: You have essentially straightlined the Chesapeake Bay program. If this is the nation's "model" program for estuary restoration, why isn't the Bay budget keeping pace at least with the cost of inflation? Because the increase is less than the cost of inflation, it would appear that certain activities would have to be curtailed under the budget request. Is this true? If so, what activities will be cut?

ANSWER: Since its evolution into an implementation program in FY'85 when its budget was just over $10 million, the Bay program's budget has grown over 46 percent. This is comfortably ahead of the rate of inflation over the same period and is a figure that does not reflect the substantial increases contained in the President's FY'92 budget.

The program has no current plans to cut back elements of its workplan because of limited funds. Since the program began, there have been several adjustments in funding. While proposals have occasionally been constrained, these have been the result of the management decisions about what constitutes effective use of resources, rather than a reaction to funding constraints.

CHESAPEAKE BAY PROGRAM

SENATOR MIKULSKI: Mr. Reilly, as head of the Chesapeake Executive Council, set out an impressive goal of completely eliminating non-compliance by federal facilities that discharge into the Bay, by December 31, 1990. Was that goal achieved? When will this goal be met?

ANSWER: In December 1989, William K. Reilly, EPA Administrator and Chairman of the Chesapeake Bay Executive Council set an ambitious goal of full environmental compliance by December 1990 at all major federal facilities impacting the Bay. He requested that these facilities become models of compliance for the regulated community. As a result of intensive efforts by EPA, the Bay states, and the federal agency community, nearly 90 percent of the federal facilities with significant violations in December 1989 have since resolved those violations or are now on a formal compliance schedule to resolve them. A press release documenting this first year success was issued in early February 1991.

At the beginning of the initiative, 37 of 50 major federal facilities in the Chesapeake Bay watershed were in significant non-compliance with at least one of six federal environmental regulations. By December 31, 1990, only four remained in violation and had failed to sign a compliance agreement. EPA continues to press for full compliance by these facilities and the negotiation of outstanding policy issues that have been identified.

EPA's challenge in 1991 will be to reach and maintain 100 percent compliance for Bay federal facilities with significant violations. We are also working to develop a long range plan to maintain this level of success and possibly expand the scope of compliance concern to includes other program violations not presently included in this initiative.

PATUXENT STORMWATER MANAGEMENT PROJECT

SENATOR MIKULSKI: What is the status of the Patuxent Stormwater management project for which we provided $1.25 million in last year's appropriation bill?

ANSWER: The funds for this initiative are designed as grants to states, and EPA has chosen to allocate all the funding to the State of Maryland. Project planning is underway with the Governor's office and other state officials. They have scheduled an application for grant assistance for the first of June, 1991. Current plans are to involve local governments and the Patuxent River Commission in projects that will quantify the impacts of stormwater controls in the watershed.

RECREATION BOAT POLLUTION

SENATOR MIKULSKI: The Chesapeake Bay Commission inJanuary released a study entitled "Recreation Boat Pollution in the Chesapeake Bay" which recommended that EPA define criteria for designating sensitive areas in the Bay as "no discharge zones" for recreational vessels. What is EPA doing to regulate pollution discharges from recreational vessels?

ANSWER: The report in question was a report of anImplementation Committee workgroup chaired by the Executive Director of the Commission. The workgroup's report makes 20 recommendations to reduce boating discharges in the Bay. EPA headquarters staff participated on the workgroup and together with the EPA Bay Program has responsibility for implementing several of these recommendations. Each state has a responsibility to initiate action on most of the workgroup's proposals. The Implementation Committee is preparing to track the progress on each of the workgroup's recommendations and will report annually.

REORGANIZATION OF CHESAPEAKE BAY PROGRAM

SENATOR MIKULSKI: I understand EPA is reorganizing its Chesapeake Bay program. How is this proceeding and what are the goals guiding the reorganization?

ANSWER: EPA initiated a reorganization of its internal contributions to the Chesapeake Bay program in January, 1991 to respond to the growing challenges and demands of this program. The proposal consisted of the creation of a Chesapeake Bay Program Office, located in EPA Region III offices in Philadelphia, which is cross-media in structure and reporting directly to the Regional Administrator. The Liaison Office in Annapolis would report directly to this new office. This organizational change was approved by EPA Headquarters and made effective on March 24, 1991. An Acting Director for the program has been assigned and a core staff in Philadelphia have been recruited to strengthen the program management and coordination functions.

The goals of the reorganization were to:

- elevate the level and visibility of the Bay program within EPA's organization and to be fully responsive to the strategic directions of the Agency;
- create a full-time, senior management position to direct the program as opposed to the previous structure where it was a part-time management responsibility of the Water Management Division Director;
- distinguish the Bay program as an organization that is truly multi-media and multi-program in its approach to problem solving, as opposed to strictly water quality based, to respond to the challenges of protecting this complex ecosystem;
- maintain the critical role of the Chesapeake Bay Liaison Office in Annapolis to provide the primary day to day contact with partner states, the general public and provide Bay committee staff support;
- to fully integrate the program into the EPA's planning, budget and accountability processes as well as to tap the enormous resources of the other Agency environmental programs in a more coordinated and effective fashion; and
- to ensure the program's grants and other fiscal matters are managed with integrity and that these processes are continuously improved to avoid vulnerabilities which would undermine the credibility of the restoration effort.

FUNDING FOR POLLUTION PREVENTION

SENATOR MIKULSKI: According to one estimate, EPA will spend $189 million on pollution prevention-related efforts in all programs in FY 1992, and increase of $16 million. Please provide a breakdown of the specific programs to be funded out of this total. Include which of these programs are new activities and which represent continuation of current efforts.

ANSWER: Our current estimate is that the Agency will spend $53.8 million on "focused" pollution prevention activities in FY 1992. A chart listing "focused resources" by Agency office is attached.

"Focused" resources are defined as those specifically earmarked for pollution prevention, including resources for the Pollution Prevention Division, designated Regional resources, Congressional add-on resources, Pollution Prevention Set Aside funds for Agency-wide projects, the Industrial Toxics Project, research, and resources within a program base that has been designated for broad pollution prevention oversight.

The data compiled to date represents our best estimate at quantifying and characterizing "focused" pollution prevention efforts at EPA. As this process evolves, our resource estimates will be adjusted accordingly. Please note that these figures do not reflect resources associated with the numerous activities that indirectly foster preventing pollution. "Contributing resources" is a more expansive category that presents a much greater challenge to quantify.

IV. Resource Detail (Dollars in Thousands)

	FY 1990 ACTUALS		FY 1991 ESTIMATE		FY 1992 REQUEST		CHANGES	
OFFICE	**FTE**	**TOT$**	**FTE**	**TOT$**	**FTE**	**TOT$**	**FTE**	**TOT$**
POL. PREV.	61.1	$21,941.6	149.1	$45,158.2	184.6	$53,780.5	35.5	$8,622.3
S&E	61.1	5,258.3	149.1	8,908.8	184.6	11,832.1	35.5	2,923.3
R&D		3,945.8		9,433.4		10,783.4		1,350.0
AC&C		12,737.5		26,816.0		31,165.0		4,349.0
OPPE	28.7	8,531.7	46.8	11,641.5	48.3	8,180.5	1.5	-3,461.0
S&E	28.7	1,794.2	46.8	3,141.5	48.3	3,465.5	1.5	324.0
AC&C		6,737.5		8,500.0		4,715.0		-3,785.0
ORD	12.7	6,345.8	17.2	10,378.1	16.2	11,883.7	-1.0	1,505.6
S&E	12.7	2,400.0	17.2	944.7	16.2	1,100.3	-1.0	155.6
R&D		3,945.8		9,433.4		10,783.4		1,350.0
OAR	0.0	0.0	1.8	1,080.4	1.8	1,091.7	0.0	11.3
S&E			1.8	123.4	1.8	133.7	0.0	10.3
AC&C				957.0		958.0		1.0
OW	0.0	0.0	3.7	1,574.8	4.2	1,618.7	0.5	43.9
S&E			3.7	167.8	4.2	211.7	0.5	43.9
AC&C				1,407.0		1,407.0		0.0
OPTS	18.7	6,964.1	71.5	14,697.5	95.0	20,496.5	23.5	5,799.0
S&E	18.7	964.1	71.5	3,930.5	95.0	5,696.5	23.5	1,766.0
AC&C		6,000.0		10,767.0		14,800.0		4,033.0
OSWER	0.0	0.0	6.0	2,330.0	16.0	6,960.0	10.0	4,630.0
S&E			6.0	480.0	16.0	1,010.0	10.0	530.0
AC&C				1,850.0		5,950.0		4,100.0
OE	0.0	0.0	2.1	3,375.9	3.1	3,469.4	1.0	93.5
S&E			2.1	120.9	3.1	214.4	1.0	93.5
AC&C				3,255.0		3,255.0		0.0
OARM	1.0	100.0	0.0	0.0	0.0	0.0	0.0	0.0
S&E	1.0	100.0					0.0	0.0
AC&C								
OA	0.0	0.0	0.0	80.0	0.0	80.0	0.0	0.0
S&E							0.0	0.0
AC&C				80.0		80.0	0.0	0.0

POLLUTION PREVENTION GRANTS

SENATOR MIKULSKI: Mr. Reilly, you have said that Pollution Prevention is one of your priorities. Furthermore, the Pollution Prevention Strategy envisions the States as a key area for testing innovations. Yet the budget proposes to cut pollution prevention grants from $7 million in FY 1991 to $3 million in FY 1992. If pollution prevention is one of your priorities, why are you cutting this important grant program?

ANSWER: EPA requested $3 million in straight-line funding for the grants program. The Agency is exploring the possibility of reprogramming FY 1992 funds to ensure the program is fully funded at the authorized level. The Agency is firmly committed to pollution prevention and is looking for ways to build pollution prevention criteria into the single media grant programs the Agency administers. The total funding for these programs is approximately $500 million in the FY 1992 request. An Agency-wide grants flexibility workgroup is currently seeking ways to use media-specific grant programs to achieve pollution prevention goals.

SENATOR MIKULSKI: How are projects selected for funding under the State grants program?

ANSWER: Competition for pollution prevention grants is open to state agencies and Indian tribes. Proposals are reviewed by a panel which includes representatives from media-specific program offices from both Headquarters and Regional offices. The panelists assign scores to each proposal for various evaluation criteria which are listed in the grant guidance issued to each applicant. The applications are then ranked by their aggregate scores and the top applicants are awarded funds.

SENATOR MIKULSKI: What criteria and factors are used?

ANSWER: There are six criteria against which each grant/cooperative agreement will be evaluated. They are as follows: 1) goals and objectives are clearly identified and a strategy for meeting the goals and objectives is defined; 2) multimedia opportunities and impacts are defined; 3) significant needs of the State or region are addressed and areas for significant risk reduction are targeted and integrated into overall pollution prevention goals and implementation strategies; 4) the pollution prevention activities of other programs or organizations in the State or region are integrated and leveraged into the proposal; 5) measures of success are identified and; 6) a plan for dissemination of project results is identified.

EPA has awarded over $14 million to State or regional organizations in 36 states through its multimedia pollution prevention or hazardous waste minimization grant programs. EPA will accord a high priority to during the application review process to competitive applications from States previously unfunded.

SENATOR MIKULSKI: Is the grants approval process multi-media, in the sense of involving each of EPA's media-specific offices?

ANSWER: Historically, we have involved the program offices by the very nature of the grants being multimedia. More specifically, the review panelists have included representatives from the media specific program offices both at Headquarters and in the Regions.

INDUSTRIAL TOXICS PROJECT

SENATOR MIKULSKI: Part of your pollution prevention strategy is the "industrial toxics project" in which you will target releases of specific chemicals from the manufacturing sector to be reduced on a voluntary basis. What sort of response have you had so far from companies?

ANSWER: To date, the Agency has received approximately 75 responses from companies who fall within the category of the top 600 largest emitters. The parameters for the larger universe of emitters, which is approximately 3600 companies are defined by Toxic Release Inventory (TRI) reporting criteria, specific chemical manufacturing, processing or use patterns, and total volume of chemicals released or transferred into the environment.

The responses have been affirmative and supportive of this new approach, and have varied in detail from general commitment and support to specific target goals and reduction practices. It is encouraging to recognize that these letters have been "unsolicited" since we have not yet distributed a detailed document on how, when and where to make these commitments to the Agency.

SENATOR MIKULSKI: Why would companies agree to participate in this voluntary program?

ANSWER: The Industrial Toxics Project (ITP) represents a unique opportunity for the industrial sector to work with both EPA and the public to design and implement a national pollution prevention program. This program offers industry the opening to voluntarily reduce their emissions of certain toxic chemicals; to design individual facility strategies for how those reductions will be achieved, and to receive Agency recognition for successful prevention activities. Decisions on whether to participate, how and where reductions will occur, specific technology choices or process changes will all be left within the purview of individual companies. This is a dramatically different approach than the Agency has ever used before and we are hearing very positive comments about the flexibility and the recognition.

This program also allows for public recognition of projects which companies have already started; some as early as 1987. This program, with a baseline year of 1988, allows for recognition of prevention activities initiated prior to the ITP but with results showing in the 1992 to 1995 timeframe.

SENATOR MIKULSKI: Haven't many companies already made purchase commitments and contractual arrangements into 1992 that would prevent them from complying with the 1992 reduction goal?

ANSWER: The 1992 goal of 1/3 reduction in total emissions is an interim measure that will allow the Agency, the public and the industrial sector to begin to measure progress towards the more significant goal of a 50% reduction in 1995. It is true that many companies have already made commitments towards their 1992 programs but it is unlikely that these programs would be totally inconsistent or in opposition to reductions in environmental contamination. The Agency will recognize companies that plan to meet or exceed the 1995 goal.

SENATOR MIKULSKI: Will Federal facilities participate in this project?

ANSWER: Federal facilities are not required to report under the Toxics Release Inventory (TRI) reporting rule and consequently most Federal facilities are not included in the universe of facilities counted for this effort. Those Federal facilities which voluntarily reported to TRI and emit any of the 17 chemicals of concern for this project will be contacted and asked to participate.

INDUSTRIAL TOXICS PROJECT

SENATOR MIKULSKI: Does the technology currently exist that will enable manufacturers to make the reductions you have proposed? If not, are you confident that EPA will be able to develop prevention strategies that will not pose insurmountable costs to the manufacturer?

ANSWER: In many cases, the ability to significantly reduce Toxic Release Inventory (TRI) emissions through the use of currently available technology has been demonstrated to the Agency. It would be impossible to say definitively at this point however, that a prevention program is available for every use of each chemical on the Agency's list. An important piece of this initiative will be to identify barriers to prevention opportunities and to look for ways to encourage the elimination of those barriers. Driving the development of alternate technologies, where appropriate, will be a fundamental piece of this effort.

Prevention technologies are often "resource savers" and consequently money savers for particular companies. Experience by a number of major companies has demonstrated significant savings related to raw material costs and decreased waste management costs following the adoption of particular technologies. While this will not always be the case, we clearly do not foresee voluntary participants taking on insurmountable costs to achieve emission reductions.

INDUSTRIAL TOXICS PROJECT

SENATOR MIKULSKI: You plan to track the success of this program through the Toxic Release Inventory (TRI). What limitations does the TRI have in this regard?

ANSWER: The TRI program is the only national, publicly available data base that provides comprehensive data related to toxic chemical releases in the United States. The data base is limited to companies that fall within Standard Industrial Classification (SIC) codes 20-39 and which have greater than 10 employees. There are also poundage thresholds which must be met before reporting is required.

The lists of chemicals reported are limited to those specifically on the TRI list -- currently, approximately 320 individual chemicals and chemical categories. The emission numbers are estimated releases versus monitored data.

While these parameters may be viewed as limitations for some uses of TRI; they do not present any specific impediments for measuring progress of the Industrial Toxics Project. The Agency is confident that the estimated emission numbers are relatively accurate and useful for this type of measurement activity.

LOCATION OF POLLUTION PREVENTION OFFICE

SENATOR MIKULSKI: It is rumored that EPA is considering moving the Office of Pollution Prevention to the Office of Pesticides and Toxic Substances. In order to infuse the "pollution prevention mentality" throughout the Agency, doesn't it make more sense to put the office in the Administrator's office rather than a program office, which tends to view environmental problems separately? Wouldn't moving the OPP to the Administrator's Office illustrate the high level of support the Administrator places on pollution prevention?

ANSWER: We are currently reassessing the proper organizational location of the Office of Pollution Prevention as we strive to infuse the "pollution prevention" mentality throughout the Agency. No decision has been made to relocate the Office of Pollution Prevention.

Our overriding objective is to assure that the Office can meet the responsibilities outlined for it in the Pollution Prevention Act of 1990, including "...the authority to review and advise such [single medium program] offices on their activities to promote a multi-media approach to source reduction." To meet the criteria of the Appropriations Committee, the Office must also be able to promote pollution prevention for other sectors: agriculture, energy, the federal sector, and the consumer sector.

Therefore, the Office must be placed where it can have a strong role for institutional advocacy, so that over the long-term, pollution prevention becomes an integral feature of all the Agency's activities. It must also have the visibility to communicate effectively with the many outside constituencies that have a stake in pollution prevention, including States, industry, citizens groups and Congress. Finally, organizational placement should promote long-term stability for the issue, and provide some insulation from short-term resource pressures and changes in direction.

SUPERFUND RESEARCH

SENATOR MIKULSKI: Research - EPA's Superfund Management Review of the Superfund program recommended that EPA "Aggressively seek innovative treatment technology". How does your budget support that goal? Why are you decreasing Superfund research by 9%? What is the status of developing cost-effective destruction (Treatment) technologies?

ANSWER: Over 45% of EPA's FY92 Superfund research budget request directly supports either the development and/or evaluation of innovative treatment technologies as part of the Superfund Innovative Technology Evaluation (SITE) Program or other technology evaluation program areas. In addition, some innovative technology research is supported under the research grants program, and under the Hazardous Substances Research Centers Program.

One third of Superfund cleanups now involve the use of innovative technologies. An EPA survey of 254 NPL sites found that innovative technologies made up 37% of the remedy selections as compared to established technologies such as incineration and stabilization. EPA's Superfund research and development program is helping to meet the need for proven, cost effective treatment technologies to address the widely varying range of wastes and site conditions that the Superfund program encounters.

The reduction in support for Superfund research reflects the Agency's efforts to balance enforcement and cleanup with research priorities and also the completion of support for certain research projects.

RECRUITMENT OF TECHNICAL TALENT

SENATOR MIKULSKI: An article appearing in the Evening Sun (1/8/91) concerned the fierce competition for technical talent in environmental areas. According to the director of remedial projects at Monsanto Chemical Co., the success of a Superfund project depends on the skills of the agency project manager and that EPA is hampered by the lack of experience at this key position. One of the recommendations of the 90-Day Review was that the agency increase its efforts to recruit and retain qualified personnel. What are you doing in this area?

ANSWER: The career ladder for Agency site project managers; on-scene coordinators (OSCs) and regional project managers (RPMs), was raised to the GS-13 level. Classification guidance was published in December 1990 giving Regions the tools needed to raise the career ladder for OSCs/RPMs to this grade level. This increased promotion potential will allow EPA to become a more competitive employer and to attract and retain the quality field personnel that are so vital to the Superfund program.

CLEAN SITES' RECOMMENDATIONS

SENATOR MIKULSKI: In October 1990, Clean Sites, a non-profit organization involved in Superfund clean ups, made a series of recommendations for the Superfund program called "Improving Remedy Selection". Do you agree with Clean Sites' recommendations? Please explain. Do you have plans to implement some or all of those recommendations? What steps has the agency taken to improve its remedy selection process?

ANSWER: The Clean Sites' report addressing the Superfund process used for remedy selection made several recommendations with respect to existing procedures employed by the program. The Agency believes the report provides some very useful recommendations. However, the Agency is concerned that certain recommendations are inconsistent with requirements of the National Contingency Plan (NCP) and whether certain recommendations can be practically implemented.

The Agency is planning to conduct a pilot study of the proposed Clean Sites recommendations. Clean Sites has requested a $600,000 grant to fund their participation in the pilot study, which would start this spring and last three years. The Agency is reviewing the this request.

COMMUNICATING IMPORTANT SITE INFORMATION

SENATOR MIKULSKI: A major criticism of the Clean Sites report had to do with public participation and informing the public in general. In Maryland, for example, in a county of 76,000 people, only twelve people were present at a public meeting to comment on EPA's record of decision for remediation of the Southern Maryland Wood Treatment Plant Superfund site located in Hollywood, Maryland. According to EPA's own documentation on the site, the community relies "almost completely" on local newspapers to educate themselves, with many residents assuming that the remedial action has been completed at the site because of the failure of the local media to clearly distinguish between removal and remedial activities. The point is that EPA's reliance on the local newspaper as a primary means of educating the public is not sufficient and is ineffective, as evidenced by the extremely low attendance at public meetings. What is EPA doing to communicate important site information to all stakeholders -- states, responsible parties, and citizens -- in a clear and timely fashion?

ANSWER: EPA communicates important site information to states, responsible parties, and citizens using several techniques. Outreach activities most commonly utilized include site fact sheets, site tours, radio announcements, press conferences, community interviews, educational workshops, public forums, open houses/availability sessions, small group discussions, and public meetings. All are geared toward promoting mutually satisfactory two-way communication with the affected public.

With regard to public meetings, staff typically place an advertisement in the local newspapers announcing the meeting, and send to each person on the site mailing list a copy of the same announcement. Current practice in Region III, which covers the Maryland Wood Treatment Plant Site, is to place a quarter page advertisement in the first section of the local newspaper, send notification to each person on the site mailing list, and inform the congressional delegation of the meeting.

Low attendance at a public meeting can be viewed as a positive indicator. In fact, it has been EPA's experience that attendance at meetings declines as a community sees that their concerns are being incorporated into site decisions; as the community gains trust and confidence in EPA's efforts; and as the community feels satisfied that they have been dealt with honestly and fairly.

RAND CORPORATION STUDY/SUPERFUND SPENDING

SENATOR MIKULSKI: An ongoing RAND Corporation study, partially funded by EPA, is focusing on the distribution of Superfund costs between legal and administrative versus remedial and cleanup activities. On the basis of data drawn largely from EPA, RANDs first report found that approximately 64% of EPA's actual expenditures have been for non-site-specific activities, including general administration, management, and enforcement. It is expected that with data drawn from interviews with responsible parties, the transaction costs will be even higher. What is EPA doing to limit Superfund money spent on legal and administrative costs?

ANSWER: The President's FY 92 budget places a new priority on funding direct site cleanup work. The budget requests a $134 million increase for Superfund with the entire increase devoted to site cleanups. Most of this increase ($107 million) will be devoted to Remedial Action at sites. The "transaction costs" will certainly rise when Rand adds private sector costs to the analysis. But those costs are almost entirely beyond Superfund's control. They are the product of the CERCLA/SARA liability provisions and reflect the efforts of private parties to shield themselves from financial liability.

Of the monies obligated by Superfund, the Annual Report to Congress indicates that Direct Site Activity accounts for 69% of

Superfund obligations since the passage of SARA. These obligations fall into two major categories: direct site work and direct site support. Direct Site Work; defined as removals, pre-remedial work, engineering and design studies and remedial actions, accounts for 50% of Superfund obligations. Direct site support; non-cleanup activities that are part of the overall effort at an individual site, represents an additional 19% of Superfund obligations. These activities include site specific contract management, lab support, community relations, direct technical support, and enforcement activity intended to bring a Potentially Responsible Party (PRP) to settlement. These activities play a necessary support role in site cleanup.

Superfund's transaction costs are being controlled by developing standardized procedures and approaches to more of the program.

SUPERFUND/STATE DEFERRAL

SENATOR MIKULSKI: States around the country are asking to have more involvement in their ability to influence the NPL process -- from an initial listing decision to involvement in remedy selection. In Maryland for example, the state is appealing EPA's decision to list the Anne Arundel County Landfill on the NPL. The state's Department of Environment is concerned that this particular NPL listing is unwarranted, could potentially delay cleanup of the site, and will unnecessarily burden the administrative operations of both the state and EPA. Yet EPA has no obligation to reconsider an NPL decision based on state concerns. Why? What is the agency's policy with regard to state deferral?

ANSWER: During the past two years, EPA considered broadening the scope of deferral policies to allow states, as well as other Federal agencies, to conduct response actions under their own authority. On December 21, 1989, EPA proposed various options of deferring listing sites on the NPL in the preamble to the proposed NCP. After receiving and reviewing comments on the issue, EPA decided in the final rule (March 8, 1990) not to determine at this time whether, or under what circumstances, current deferral policies should be expanded to include deferral to states. EPA is still considering all comments concerning deferral to a state authority or a non-CERCLA Federal authority separately from the NCP.

A site is proposed for listing on the NPL because it has been judged among the most hazardous in the nation, based on their score according to the agency's Hazard Ranking System. Only sites on the NPL are eligible for remedial action using Superfund money.

STATE INVOLVEMENT IN REMEDY SELECTION

SENATOR MIKULSKI: In addition, while the state is required to pay 10% of a site's cleanup costs, the state has very limited involvement in choosing a cleanup remedy. Like all parties with a stake in the site, states can review and comment on a particular cleanup remedy chosen by EPA, but the agency has no obligation to take these views seriously in its final remedy selection. What is EPA doing to ensure states have meaningful and significant involvement in the remedy selection process?

ANSWER: State views on remedy selection are routinely given great weight by EPA, and almost all remedies receive state concurrence on the Record of Decision (ROD). However, EPA may select a different remedy from that proposed by a state where the state's proposed remedy is to meet state requirements that are not Applicable or Relevant and Appropriate Requirements (ARARs), or would represent treatment that is inconsistent with remedies chosen for similar sites in other states.

SUPERFUND ENFORCEMENT

SENATOR MIKULSKI: EPA has been increasing emphasis on enforcement in the Superfund program. Has increased enforcement accelerated the pace of clean ups or has additional litigation delayed program clean ups?

ANSWER: With the aggressive enforcement component of the Superfund program, the Agency has been able to initiate site study or response work at considerably more sites than would have been possible under a totally Federally financed effort.

In addition, the Agency does not believe there have been substantial delays in initiating site clean-up due to litigation since there has been limited use of litigation to compel PRPs to conduct site remediation work. Where litigation has been pursued, EPA has generally conducted fund-financed Remedial Design work concurrently with the initiation of litigation in order to minimize any delays in site remediation. A decision to pursue litigation for work as opposed to later cost recovery efforts is made based on the compelling need to address site clean up goals and minimize threat.

Finally, while some delays are inevitable in order to negotiate with PRPs to conduct site work, these delays may be offset by the fact that PRPs generally have contracting mechanisms which allow for faster initiation of site work once an agreement is reached with EPA.

SUPERFUND COST RECOVERIES

SENATOR MIKULSKI: A recent GAO report (GAO/RCED-90-22) noted that, as of June 1989, EPA had collected only $157 million (35%) of the $450 million it hoped to recover by 1991. What steps have you taken to improve cost recovery efforts?

ANSWER: As of 12/31/90, EPA had collected $295.4 million which is 65.6% of the $450 million target. The Agency is also currently working on a number of projects to further enhance and improve EPA's cost recovery efforts. A cost recovery rule will soon be proposed that, upon issuance, should expedite and improve cost recovery operations. There is an emphasis on increased coordination among the Headquarters and Regional program offices responsible for cost recovery tracking and reporting. Reconciliation reports for financial data have been developed as well as a financial backlog report. Responsibility for the preparation of cost documentation packages has been delegated to the Regions for purposes of cost recovery expedition. The Regions have also received guidance and training on areas with direct influence on the timeliness of cost recovery; the issuance of demand letters and PRP search procedures.

SUPERFUND CONTRACT INVESTIGATIONS

SENATOR MIKULSKI: EPA's Inspector General has focused all of its Superfund investigations on small lab contracts, and has not assigned any staff to investigate clean up contracts since 1984. Lab contracts are worth about $70 million, while clean up contracts cost EPA more than $1 billion annually.

Why has your I.G. spent all of its time investigating small lab contracts in the Superfund program as opposed to large clean up contracts?

ANSWER: Since 1984, the Office of Investigations has investigated all aspects of the Superfund program. From fiscal 1984 through fiscal 1990, the Office of Investigations opened over 150 Superfund cases, only 21 of which involved the contract laboratory program (CLP). During the period, this Office also investigated 7 of the Agency's 10 largest Superfund contractors and spent numerous staff years on site-specific investigations. CLP cases represent only 37.5 percent of our total investigative effort during this period, with most of this effort concentrated in fiscal years 1989 and 1990.

SUPERFUND SMALL LAB CONTRACTS

SENATOR MIKULSKI: Has the I.G. found significant abuses in the small lab contracts? If not, why is this area being emphasized?

ANSWER: Yes, the Office of Investigations has found significant abuses in the contract laboratory program (CLP). The CLP has proven vulnerable to fraudulent evasion of the elaborate quality control requirements that it imposes on contract laboratories.

EPA administers the CLP to support the Superfund mission to protect human health and the environment from actual or threatened releases of hazardous substances, pollutants, and contaminants. The CLP generates data from chemical analyses of samples taken from Superfund sites. EPA uses this data to determine the need for emergency and remedial response actions at Superfund sites and to support Superfund enforcement activities. Thus, the data generated by these laboratories becomes the basis for subsequent cleanup activities potentially totalling billions of dollars. Since the I.G. investigations have focused on allegations that these tests have not been conducted in accordance with the contract provisions, the reliability of the data generated is called into question. Therefore, the investigative effort has had and continues to have a major impact on the Superfund.

The Office of Investigations has obtained guilty pleas involving allegations of fraud at four CLP laboratories. Each of the laboratories was either suspended from obtaining further government contracts or voluntarily withdrew from the Superfund program. One of these laboratories and six employees of two others have been found guilty of CLP fraud. A second laboratory and an employee have pleaded guilty to manipulating data, but have not yet been sentenced.

A number of other investigations are still in progress. Of these one laboratory, which had CLP laboratories in two states, has been suspended for more than a year from obtaining government business, pending a criminal investigation into allegations of widespread CLP fraud. A second laboratory, has disclosed fraudulent practices on CLP contracts to the Office of Investigations.

SUPERFUND LARGE CONTRACTS

SENATOR MIKULSKI: Why would the I.G. ignore the large contracts when they are worth (collectively) about 15 times the value of the small lab contracts?

ANSWER: The Inspector General has not ignored the large Superfund contracts. The Office of Investigations has investigated 7 of EPA's 10 largest Superfund contractors. However, we cannot overemphasize the importance of the Contract Laboratory Program (CLP) to EPA's Superfund Program. The CLP generates data which EPA uses to determine the need for emergency and remedial response actions at Superfund sites and to support Superfund enforcement activities. Thus, the data generated by these laboratories becomes the basis for subsequent cleanup activities potentially totalling billions of dollars.

In the last two years (1989 and 1990) the Office of Audit issued reports involving over $1 billion of Superfund contract costs. The vast majority of audits of EPA contracts are performed by the Defense Contract Audit Agency (DCAA). However, DCAA has not always been able to conduct audits as quickly as the I.G. and the Agency would have liked. Therefore, in 1990, the Office of Audit began surveys of major EPA contractors, many of whom are Superfund contractors to develop sufficient information for deciding on audit cognizance. The Office of Audit recently informed DCAA that the I.G. wishes to assume audit cognizance (responsibility) for three major Superfund contractors. The additional contract dollars the I.G. received in its fiscal 1991 and 1992 appropriations will assist this effort. In this regard, the Office of Audit intends to work more closely with EPA procurement officials and DCAA Headquarters and field offices so that more timely audit coverage can be provided to major EPA contractors.

SENATOR MIKULSKI: What are the I.G.'s plans for 1991 and 1992 -- what proportion of resources will be directed at large clean up contracts?

ANSWER: In 1991, the Office of Investigations will devote 13 work years, or 28 percent, of its direct investigative time to the Superfund program. Most of the investigative time will be spent in continuing its contract laboratory program (CLP) investigations and an investigation of a major Superfund clean up contract. Almost all of its remaining 1991 Superfund work years will be used to investigate allegations which come to its attention as the year proceeds.

The Office of Investigations is currently planning for 1992. That Office anticipates receiving 5 additional FTEs for 1992 that will allow it to do more proactive work. Most of this proactive work will be devoted to Superfund contracts and clean up contractors.

With respect to audits, in 1991, a maximum of $3 million (or about 66 percent) of contract funds and 23.4 work years, (or about 42 percent) of the Office of Audit's in-house Superfund staff resources can be devoted to Superfund financial audits, including contracts. In 1992, the Office of Audit plans to devote an additional 5 FTEs and $1.3 million to audits of Superfund contractors, including those with large clean up contracts.

In addition to financial audits of Superfund contractors, the Office of Audit will continue to perform internal and management audits of EPA's contract management. These audits have involved contracts for Emergency Response Cleanup Services (ERCS), Technical Assistance Teams (TAT), Field Investigations Teams (FIT), and Technical Enforcement Support Contracts (TES). Also, the Office of Audit is currently auditing contract performance in the Alternative Remedial Contracting Strategy (ARCS) program. These audits have reported on systemic problems of EPA's nationwide Superfund contract program and resulted in major changes in the way the Agency does business.

DRINKING WATER BUDGET

SENATOR MIKULSKI: You are requesting a slight increase (5.3%) for Public Water System grants for a total of $49.95 million. These grants help states develop safe drinking water programs. The ability of states to implement the Safe Drinking Water Act is critical, but the states will not be able to accomplish this without adequate dollars. You indicate in the budget (p. 4-27) that $279 million is needed in 1992 for states to meet SDWA requirements, and only about $95 million of that will be funded (federal and state together). While the federal government would meet 18% of the need through public water system grants, there will be a $184 million shortfall. How will states make up for that shortfall, particularly in light of the budget crunch most states are experiencing?

ANSWER: There is no doubt that some states are facing funding and capacity shortfalls. The Agency is working with the states to build their program capacity by focusing on educating State Executive and Legislative decision makers on the need to increase resources and strengthen legal authorities for state drinking water programs. EPA is encouraging the states to leverage their scarce resources by building partnerships with organizations representing constituencies affected by drinking water regulations. The objective is to obtain meaningful increases in state drinking water program resources by engaging all appropriate national and local groups and associations in activities that will assist states in obtaining increased drinking water program resources. To date, 13 states have increased their resources in the form of user fees, appropriations, and internal agency redistributions. Fifteen states have either undertaken or expressed a strong interest in undertaking specific state capacity building efforts, with development of user fee proposals, needs assessment reports, and requests to EPA for contractor assistance. In addition, several nontraditional groups and associations have expressed an interest in and willingness to support state drinking water program capacity building efforts.

STATE COMPLIANCE/DRINKING WATER

SENATOR MIKULSKI: What is the mobilization effort referred to on page 4-3 and how will it help states comply with SDWA requirements?

ANSWER: The Office of Drinking Water mobilization effort is a coordinated series of initiatives designed to address the fundamental causes of non-compliance with SDWA requirements. These initiatives address a broad range of issues ranging from the need to increase state drinking water program resources to identifying simple, low-cost technology for small systems. The common element among all the mobilization initiatives is that each seeks to achieve its objectives through action-oriented partnerships between EPA, state drinking water programs, and organizations representing constituencies affected by the SDWA. These partnerships are necessary since EPA and state drinking water programs can provide only a fraction of the technical, managerial, and financial assistance necessary to facilitate compliance. Through partnerships with organizations representing affected constituencies, EPA and states can leverage their limited resources. Furthermore, basic institutional changes in the drinking water industry will be necessary in order to achieve sustained, long-term compliance.

These changes can only be brought about through the concerted efforts of all stakeholders. Mobilization partnerships facilitate such concerted efforts.

The mobilization effort has three major goals:

(1) Strengthen State Programs. The mobilization initiatives seek to build strong state programs which are able to successfully retain primacy in the long term. Our **State Capacity Initiative** assists state programs in building support for increased resources and in identifying alternative sources of program funding. In 1990, some 13 states obtained increased resources totaling nearly $14 million. There are legislative proposals for increased program resources currently pending in 17 states. Our **Institutional Support Initiative** assists state programs in considering a broad range of programmatic changes that will strengthen their ability to comply with SDWA requirements. For example, the initiative is currently assisting 10 states to develop programs to ensure the viability of small drinking water systems. The initiative is also promoting state adoption of administrative penalty authority. Our **Local Health Officials Initiative** assists state programs in considering the extent to which county and other local health officials can assist the state in meeting its SDWA obligations.

(2) Strengthen Small Systems. The mobilization initiatives seek to improve the technical, managerial, and institutional capabilities of small systems. The objective of these initiatives is to insure that small systems are viable and capable of consistent compliance with SDWA requirements. Our **Training Initiative** is building national and state coalitions to develop and deliver training for small system owners and operators (and others involved in SDWA implementation). At the national level EPA has joined the American Water Works Association, the National Rural Water Association, the Association of State Drinking Water Administrators, the Rural Community Assistance Program, and the National Environmental Trainers Association/Coalition of State Environmental Training Centers to form the National Training Coalition. This coalition is promoting the development of state coalitions to coordinate comprehensive training programs for water systems in each state. Through the efforts of these coalitions we expect small systems to have access to a broad range of training including that related to regulatory issues, technical issues, system management, financial issues, rate setting, and so on. Our **Technology Initiative** seeks to identify and ensure the understanding and application of appropriate technological solutions for small systems. This initiative involves extensive partnerships with water treatment equipment manufacturers and suppliers. These companies are currently funding pilot projects to demonstrate the efficacy and cost effectiveness of prefabricated treatment units for very small water systems. Our estimates suggest that these prefabricated units may cost as little as 1/10 as much as traditional custom engineered systems. Our **Institutional Support Initiative** is working to promote an awareness and application of a wide range of restructuring options for non-viable small systems and full cost pricing of drinking water. These options include consolidation, formation of cooperatives, and satellite management. Restructuring of non-viable systems will create stronger systems more capable of long-term compliance with SDWA requirements. Our **Non-Transient Non-Community Systems Initiative** focuses on school and

business operated water systems. It strives to increase awareness of the SDWA requirements and facilitate compliance among these systems.

(3) Change Public Attitudes. The mobilization effort's Public Education Initiative strives to establish an informed and supportive public that views drinking water as a valuable commodity and is willing to pay the cost of safe drinking water. The publics understanding and support are key to achieving successful implementation of SDWA requirements. This initiative facilitates the development of this understanding and support.

STATES WITH PRIMARY RESPONSIBILITY

SENATOR MIKULSKI: Which states have lost primacy and which states are currently "at risk" of losing primacy due to inadequate resources? What are the implications of that? How is the agency helping states to retain primary responsibility for the drinking water program?

ANSWER: No states have lost their primary enforcement authority at this time. The states experiencing the most difficulty in maintaining primacy are those that have not adopted the volatile organic contaminant (VOC) requirements. These states have not been successful for several reasons including a lack of resources, a cumbersome state regulatory development process, and disagreements in regulation intrepretation between EPA and the states. The states include Maine, Vermont, Kansas, Hawaii, Alaska, Palau, and Northern Marianas. As EPA promulgates additional regulations, it is expected more and more states will experience financial difficulty.

If a state were to withdraw as the primary enforcement agent, EPA would be responsible for implementing that state's public water system programs. However, we recognize that it would cost EPA far more than is presently spent to directly implement national requirements, and that EPA could only implement the most rudimentary program with available resources.

The implications of primacy withdrawal make it undesirable to both EPA and the states, therefore, steps have been taken to ease the initial burden of implementing the new program requirements without jeopardizing human health and drinking water supplies. The new primacy regulation allows states up to two years time extension beyond the original 18 month deadline to put into effect new program requirements. As a result of this time extension, EPA will assume responsibility for implementing and enforcing basic elements of any new requirements. During this time, states will maintain their primacy over existing drinking water programs and pursue legislative adoption of the new requirements. The states will also work towards building program capability to take over implementation once the extension expires. This procedure will allow the states more time to adopt and prepare for implementation of new as well as future regulatory requirements.

ALTERNATIVE FUNDING FOR DRINKING WATER

SENATOR MIKULSKI: Has EPA considered the potential for alternative funding mechanisms, such as the SRF program, to help fund sanitary surveys, infrastructure improvements, and other activities needed to maintain the safety of the nation's drinking water?

ANSWER: We have not considered such an expansion seriously to date because of several major drawbacks. First, we are concerned that the availability of a subsidy would give systems an incentive to delay compliance, even if they could afford it. Second, we question whether a legislatively viable proposal could focus the assistance on the small systems who need it most, including privately-owned systems, without diverting substantial amounts to larger systems with much less need. Finally, it appears that a subsidized interest rate would not give enough assistance to the most hard-pressed systems to allow them to come into compliance. We believe that a better approach to the problems of small systems is to foster innovative low-cost technology and financing mechanisms, so there would be less need for a subsidy.

HELPING STATES PRIORITIZE PROGRAMS

SENATOR MIKULSKI: In the fact of inadequate resources, is EPA aiding states to prioritize their tasks, so that the biggest risks areas are addressed and the most vital requirements of SDWA are met?

ANSWER: Yes. We have advised the States to prioritize their activities based on risk and have developed with them a risk-based definition of "significant non-compliance" to use in selecting opportunities for enforcement. Overall, we have advised them that the most widespread contamination problems are those of microbiological contamination, lead and radon and that they should give priority to these when making decisions on allocating resources. We also recognize that, in particular cases, especially high levels of other contaminants may also be a high priority.

SMALL SYSTEMS COMPLIANCE WITH SDWA

SENATOR MIKULSKI: What actions has EPA taken to help small systems comply with SDWA amendments? Is the agency providing technical assistance in the area of alternative and innovative financing?

ANSWER: EPA continues to assist small drinking water systems to efficiently and effectively comply with the SDWA amendments. EPA continues to expand outreach, training, and technical assistance to small systems while encouraging institutional change by promoting innovative approaches to overcome technical and fiscal barriers. EPA has brought together water equipment manufacturers and distributors, small water system managers and owners, state health officials, national associations, and EPA professionals to identify and demonstrate innovative low cost technologies for small systems. EPA has undertaken demonstration projects on technology development; is overseeing a study to update the status of technical plan review activities; is studying the feasibility of alternative organizational approaches and product lines for a small systems clearinghouse; is documenting existing installations of low cost small system technologies; and is looking at eleven small systems identified for technical assistance, and overseeing workgroups to expedite the use of leasing documents.

EPA continues to work with owners and operators of small community water systems to foster a communication network among system operators; making owners/operators aware of their responsibilities under the SDWA; coordinating training to maximize coverage; assisting owners to address financial questions to meet the new requirements; and working with public utility commissions to simplify and expedite rate increases. EPA is encouraging the use of restructuring to achieve better economies of scale and financial viability of small systems. Another effort is to better inform the public on drinking issues and protection by involving key organizations in getting the word out. Still another project aims to increase participation among local government and county-level officials in drinking water issues. These local officials play a key role with small water systems and local communities in understanding the importance of pollution prevention and, in conjunction with the states, in providing technical assistance, compliance and enforcement.

SDWA COSTS/BENEFITS BALANCE

SENATOR MIKULSKI: Overall, does the agency believe that the costs associated with the requirements of SDWA amendments are balanced by the health benefits to be realized?

ANSWER: Yes, in the case of most systems, we do. Most of the costs are associated with the filtration requirements, the lead regulation, and the radon standard. Most of the cases of excessive costs occur in small systems which face proportionately higher costs; however, we do not feel we can provide a lower level of health protection to residents of small systems. The best approach for them appears to be use of innovative low-cost technology and financing, as well as judicious use of the variance and exemption authorities in the Act.

GLOBAL CLIMATE CHANGE BUDGET

SENATOR MIKULSKI: The budget request for research and development for global climate change proposes a reduction of 4 FTE for a total of 23.9 in FY 1992. What accounts for this 12% workyear decrease and which research areas specifically will be affected?

ANSWER: The total FTE proposed for FY 1992 is 38.9, the same number which is planned for FY 1991, pending approval of a reprogramming currently being considered by Congress. This reduction will not have any adverse impact on the program.

GLOBAL CLIMATE CHANGE RESEARCH PROJECTS

SENATOR MIKULSKI: According to p. 87 of the U.S. Global Climate Change Research Program report by the Committee on Earth and Environmental Sciences for FY 92, EPA will be discontinuing a number of research projects in FY 92. These include ecological effects; regional climate; biofeedbacks; and tropospheric chemistry. Why are these projects being zero-funded in the FY 92 budget?

ANSWER: Except for "Regional Climate," the FY 91 projects have grown, but have been renamed. The "Regional Climate" research was discontinued in order to produce a more focused EPA research effort. The names given to the projects in FY 92 were designed to give a more specific description of the type of effort proposed for the program than was given in FY 91. For example, research carried out in FY 91 under the name "Stratospheric Ozone" is broken out in FY 92 into "Emissions Research (Strat. Ozone)," "Atmospheric Transport & Fate (Strat. Ozone)," "Biospheric Transport & Fate (Strat. Ozone)," and "Human Health (Strat. Ozone)."

CONVENTION ON CLIMATE CHANGE

SENATOR MIKULSKI: What further activities does EPA plan to support the development of a convention on climate change given the results of the recent global climate change negotiations held last February in Chantilly, VA?

ANSWER: EPA is conducting research to assess, evaluate, and predict the ecological and environmental consequences of global change, including the feedback of these systems on climate change. Areas of activity focus (1) on evaluating the processes and quantifying the relative contributions of anthropogenic and biological sources of trace gases, (2) on quantifying and modeling the consequences of climate change on ecosystems and their subsequent feedback to the atmosphere, and (3) on the interaction of trace gases within the atmosphere. EPA's research will help provide process-level understanding and modeling capabilities to predict global change effects and feedbacks at the regional, state, and local scale, and help provide response options for decision makers. It should be noted that EPA is only one of several Federal agencies involved in global change research.

METHANE EMISSIONS

SENATOR MIKULSKI: Methane is a significant contributor to global warming. What is EPA doing to control waste methane emissions into the atmosphere? What is EPA doing to verify the use of the fuel cell to control waste methane emissions?

ANSWER: EPA is actively identifying options for controlling waste methane emissions through the following types of activities:

- Coal Mining. Degasification using vertical wells in advance of (and during) the mining operation can reduce emissions of methane trapped in gassy underground mines by more than 50 percent while reducing the costs of necessary mine ventilation. A portion of the recovered gas can be high BTU gas and fed directly into a pipeline or used to generate electricity. Gas of medium BTU quality recovered from gob wells over the mining operation (in the gob area) may be used to generate electricity. Profitable examples of this technology exist in the United States, United Kingdom, Germany, China, and Australia. Emissions may be reduced further by using mine ventilation air that contains less than one percent methane as combustion air in gas fired turbines. EPA efforts include:
    - global estimation of methane emissions from coal mining;
    - establishment of an Ad hoc Technical Working Group with United States representatives from the United States coal mining industry, the Department of Energy (DOE), and the Bureau of Mines;
    - identification of obstacles preventing profitable projects such as property rights issues in the Appalachian region; transmission access, hook up costs, avoided cost pricing, and the need for particular demonstration programs (such as a demonstration project which upgrades medium BTU

gas to high BTU gas for introduction into a pipeline).

- o international work in cooperation with United States Agency for International Development (AID) and the World Bank to promote methane recovery from coal mining in Poland (4th largest emitter of methane from coal mining) and China (largest emitter of methane from coal mining). EPA has led two missions to China and performed a definitional mission to Poland.

- Landfills: The United States is the world's largest emitter of methane from landfills. EPA is working to identify effective programs and policies that would remove institutional barriers to the cost-effective recovery and use of methane from landfills. Methane recovery systems can reduce emissions by 30 to 60 percent in existing landfills by collecting the medium BTU gas resulting from the anaerobic decay of wastes. The recovered gas may be burned directly in nearby industrial boilers, burned in internal combustion engines or turbines to generate electricity, or at a minimum flared. New landfills may require liners to protect groundwater from landfill leachate, enhancing the methane collection process and allowing a 90 percent reduction of methane emissions. Commercial operations in the United States and Western Europe show that these systems are operated profitably. EPA is proposing rules to reduce emissions of air contaminants (primarily nonmethane organic compounds) from landfills. As a side benefit, methane emissions from landfills will be reduced significantly. EPA is also performing a demonstration project on the use of landfill gas in a phosphoric acid fuel cell. An RFP has been published for this project, and proposals will be reviewed shortly.

- Oil and natural gas systems: Changes in some procedures could reduce methane emissions from oil and natural gas systems in the United States. These include improved handling of casing gas during oil production to reduce venting and flaring of natural gas during oil production and use of improved technologies such as low bleed pneumatic instruments, high integrity piping, and new pipeline restoration techniques. While emissions from United States systems appear to be fairly low (less than 1%) based on paper studies done to date, emissions from gas transmission and distribution in the USSR (where leakage has been estimated on the order of 6 percent of throughput) and Eastern Europe could be reduced substantially by improving these facilities, with large financial benefits to these regions.

  EPA is working on a field measurement program with the Gas Research Institute to verify emission levels from United States systems. EPA is developing projects with Poland and the USSR to measure methane emissions from leaky systems and to outline plans for their upgrade and to involve United States businesses, where appropriate.

- Livestock: Methane emitted from ruminants is lost energy from the fermentation of feed that could have been transformed into useful products such as meat or milk. In developed countries specific feeds have been identified which may reduce methane emissions while enhancing the productivity of the cattle.

In other regions of the world, programs to increase animal productivity through strategic supplementation (supplements to meet nutrient deficiencies) have been initiated and have cost-effectively increased milk production and cattle reproduction efficiency; reducing methane emissions as a side benefit. EPA is continuing work in this area which began with a 1989 report, Reducing Methane Emissions from Livestock: Opportunities and Issues. Current efforts are

- completion of a new global emissions report;
- documentation of the particular diet modifications and other productivity enhancing options that will reduce methane emissions while making cattle more productive;
- development of programs, demonstration efforts, and policies to promote these options in the U.S. in cooperation with the Department of Agriculture (USDA); and
- documentation of methane reductions from a cost-effective case study in India to increase milk production;
- cooperation with the United Nations (UN) Food and Agriculture Organization to investigate possibilities and program needs in the developing world.

- Animal wastes and wastewater treatment: Methane recovery systems can profitably capture 50 to 90 percent of the methane emitted by anaerobic waste management lagoons, as demonstrated by systems around the world. Such lagoons which are used primarily at dairy and swine operations account for one-third of total emissions from animal wastes. Methane recovered from lagoons may be used directly or may be used to generate electricity to either meet on site demands or to sell back to an electrical grid.

  State and federal water and air quality regulations in the U.S. are pushing more and more farmers to use lagoons to manage their wastes. EPA's work includes:

  - new report on global methane emissions from animal wastes;
  - detailed cost analyses for key U.S. regions
  - efforts to demonstrate that technologies for methane recovery from animal wastes meet all of the objectives of these varied rules, in addition to providing farmers with energy savings;
  - Development Plan for Tropical Countries and Southeast Asia

- Rice cultivation: Over the long term, rice scientists around the world believe that methane emissions can likely be reduced by 10 to 30 percent by an integrated management approach to irrigation, fertilizer application, and cultivar selection while maintaining or enhancing rice productivity. Research done to date show that there are several promising options. However, additional research is necessary to further develop, and demonstrate such options.

  EPA is working to develop a research consortium comprised of scientists from the United States, Europe, Japan, and rice research facilities in the major rice growing countries in Southeast Asia.

EPA has also joined with the Japanese Environment Agency to form the United States/Japan Working Group on Methane which is currently cataloguing activities world wide which effectively reduce emissions of methane into the atmosphere.

The results of EPA's efforts to control waste methane emissions will be summarized in reports to Congress required under the Clean Air Act Amendments of 1990. In addition, EPA will be providing the appropriations committees with an interim report on July 1, 1991 as required under the 1990 Appropriation Act.

STATE OF THE ENVIRONMENT REPORT

SENATOR MIKULSKI: The budget requests $500,000 for an environmental statistics project. The purpose is to produce a State of the Environment Report which is scheduled for completion before the end of 1992. How does this project relate to the annual Environmental Trends Report produced by CEQ?

ANSWER: The EPA report is no longer called the "State of the Environment Report". The name has been changed to Environmental Statistics Compendium. This change was made to further differentiate this effort from the CEQ annual Environmental Trends Report and other similar reports produced by different Federal, state and local agencies. EPA's Environmental Statistics Compendium is a statistical report which presents available information on a variety of environmental areas and media. The Compendium contains environmental statistics in graphic and tabular formats with appendices that document the data gathering, integration and quality process for user information.

The CEQ report on Environmental Trends includes a narrative interpretation of selected environmental trends. The CEQ obtains graphics and statistical tables from individual contributing agencies.

SENATOR MIKULSKI: Will the State of the Environment Report be produced just once, or on a regular basis?

ANSWER: The frequency will be determined by user demand and resources available for production.

SENATOR MIKULSKI: Will the information presented in the report duplicate that found in the CEQ report?

ANSWER: The Agency has been working closely with CEQ to ensure there will be no duplication between our reports. CEQ will be a user of the statistics contained in our Compendium. The Compendium is statistical and not interpretative; nor is it correlational or predictive.

RADON PROGRAM BUDGET

SENATOR MIKULSKI: Pollution indoors, including radon, was identified by the Science Advisory Board as a relatively high risk to human health. Why does your budget propose to straight-line the radon program in 1992. How many states will receive grants in FY 92? How many regional training centers will be established in FY 92? How are funding requirements for the radon program affected by the Clean Air Act Amendments/Indoor Air amendments?

ANSWER: The Agency believes that maintaining current radon funding levels will allow the program to achieve risk reduction objectives in the long term.

Although the State grant award process has not yet been completed, we expect all 50 States, the District of Columbia, and Guam to receive grants in FY 1992.

There are now four Regional Radon Training Centers in place -- the Eastern (Rutgers University), Midwestern (University of Minnesota), Western (Colorado State University), and Southern (Auburn University) Centers. The locations of the four training centers have been selected, in part, to provide national coverage. The radon program does not plan to establish new centers in FY 1992.

Implementing the Clean Air Act Amendments is a high priority for the Agency, as is the radon program. Both have received and will continue to receive much attention in the budget process.

INDOOR AIR PROGRAM

SENATOR MIKULSKI: Several recent EPA studies identified indoor air pollution as one of the most significant environmental risks to the nation's health. EPA's 1989 Report to the Congress on Indoor Air Quality called for a significantly expanded research effort in order to better understand the health effects and sources of indoor air pollution and to identify strategies to control these sources. Even with the expanded focus, the indoor air program remains relatively small: a total of $14.6 million is requested for 92 out of a total air budget of $516 mi. (less than 3%). If indoor air exposure is a significant health risk, why is the budget so small?

ANSWER: While the Agency's FY 1992 budget request for Indoor Air programs represents a relatively small portion of the Agency's air program budget, we believe that our Indoor Air request reflects a significant commitment to addressing the critically important issues associated with indoor air pollution. You should note that our FY 1992 requested increase for Indoor Air programs represents a $6.8 million or **86% increase over FY 1991 levels**.

The Agency's Indoor Air program provides a wide range of services to confront the growing concern over this issue. In FY 1992 OAR will expand the National Air Quality Clearinghouse begun in 1991 to increase the services offered to the public, state and local indoor air officials, the private sector, and the research community. Resources will also be used to initiate a national study of the indoor air quality in large buildings and expand the Regional Training Center network.

Increased resources will be used within OPTS to conduct additional pesticide usage surveys and also develop a methodology for monitoring and assessing human, post application exposure to pesticides. The Agency will also focus on developing a coordinated risk management approach to indoor air that incorporates pollution prevention and incentives initiatives where appropriate.

ORD will develop a risk characterization methodology to assess non-cancer health effects associated with different indoor air pollution exposure scenarios. Health research will emphasize the effects of combustion products (e.g., environmental tobacco smoke) and volatile organic compound mixtures associated with sick building syndrome.

INDOOR AIR QUALITY RISKS

SENATOR MIKULSKI: I understand that the Indoor Air Division is drafting a long range Agency-wide strategy for addressing indoor air quality risks. When will the strategy be complete? Will it change the indoor air focus identified in the 1989 Report to Congress? Does this strategy formulate implementation plans for each of the EPA offices concerned with indoor air quality? What resources will be needed to implement the strategy?

ANSWER: The Indoor Air Division is close to completing a strategy document designed to articulate the Agency's indoor air policy and describe the important roles of various EPA offices in addressing risks associated with exposure to indoor air pollutants. The document does not diverge from the findings and recommendations in the 1989 Report to Congress in any significant way. While detailed implementation plans for each office are not part of the strategy document, it does identify the specific authorities, activities, and recent program initiatives designed to enhance the Agency's capabilities to characterize and respond to indoor air risks. The Agency has not yet estimated the resources needed to implement the strategy.

LEAD IN DRINKING WATER COOLERS

SENATOR MIKULSKI: EPA Assistant IG found that in Region III state programs were largely out of compliance with lead in drinking water regulations. The IG recommended that EPA provide model plans of an adequate Lead Contamination Control Act program and better outreach to the states. What are you doing to improve procedures to identify and remediate known sources of lead contamination in water coolers? Has EPA established procedures and timeframes for revising the list of hazardous water coolers and determining which manufactures are disobeying the lead ban?

ANSWER: While EPA agrees with the Inspector General that more schools should be taking action regarding lead in drinking water, the Agency does not agree with the report's conclusions that EPA has not done enough to implement the Lead Contamination and Control Act (LCCA). As discussed in detail in the Office of Water's response to the IG audit, the Office of Drinking Water has fully implemented all of the provisions of the LCCA, and in fact has gone far beyond the minimal requirements to provide schools with guidance and training on testing for and remedying lead contamination in drinking water, to provide the Consumer Product Safety Commission with the necessary support to issue recall notices for water coolers with lead-lined tanks, and to provide the public with current information on water coolers and other sources of lead in drinking water.

It must be emphasized that schools are not required by the law to conduct testing for lead in drinking water. The LCCA is a relatively new program for the States and schools, and comes at a time when severe budgetary constraints and competing demands (i.e., teacher pay raises, inflation, and an increasing number of environmental protection demands like asbestos, radon, and indoor air) for limited resources deter States from undertaking new initiatives.

Although testing by schools is voluntary, the Agency is aggressively pursuing a program to improve compliance with the requirements of the LCCA. In February 1989, EPA distributed to States guidance and a testing protocol for schools. These were developed to assist schools test for and remedy lead contamination in drinking water. EPA also established a laboratory protocol to determine the lead content in the interior lining of water cooler tanks. The testing protocol has been used in thousands of school districts throughout the country as well as by operators of non-school buildings. We have conducted numerous training seminar on the testing protocol throughout the country. The Agency is developing a guidance document for day cares and nursery schools and for non-residential, non-school buildings.

While we will continue to provide all of the materials and make available training needed for states to implement a LCCA program, we will continue to check states' progress through our regional offices. We also plan on examining selected state programs that have completed effective LCCA programs to see what measures could be recommended for other states. To encourage more schools to test, EPA is developing an educational video on testing for lead in school drinking water. To help reduce costs for testing lead in school drinking water, and thereby encourage more schools to conduct testing, EPA is in the process of evaluating field test kits currently on the market. The Agency hopes to verify manufacturer's claims regarding analytical sensitivity to help schools diagnose lead problems.

On April 10, 1989, EPA published a proposed list of non-lead free water coolers. This proposed list served to initiate testing of water coolers in schools throughout the country. On January 18, 1990, EPA finalized the proposed list and published a new list of coolers that are classified non lead-free under LCCA. EPA plans on updating this list by the end of 1991. As a result of EPA's work, a consent order agreement between the Consumer Product Safety Commission and the Scotsman Group was published on June 1, 1990, which stipulated a recall of Halsey Taylor water coolers that test above EPA's action level for schools (20 ppb).

Finally, EPA's Drinking Water Hotline provides assistance to hundreds of callers each month (including schools, non-building operators, water utilities, laboratory personnel, States, other Federal agencies, local governments, journalists, and concerned citizens) who have questions on the LCCA, the lead ban, and other lead issues.

All of these activities have been accomplished, and will continue to occur, without additional Federal funding for either EPA or the States. The activities EPA has undertaken to ensure that the lead ban and the LCCA are effectively implemented, in addition to promulgation of the forthcoming lead and copper rule, will result in substantial reductions in water lead levels to which the public is exposed.

EPA'S ROLE IN THE NATIONAL ENERGY STRATEGY

SENATOR MIKULSKI: In EPA's Clean Air Act Implementation Schedule, one of the "principles" was to "achieve and maintain a healthy environment, while supporting strong and sustainable economic growth and sound energy policy. In view of this, describe the role of EPA in the development and implementation of the National Energy Strategy.

Provide some examples of how EPA is developing cost-effective, environmentally sensitive techniques to reduce energy-related and other industrial waste.

Provide some examples of how EPA is working to increase energy conservation.

ANSWER: As part of the interagency process, EPA was involved in the development of the Administration's National Energy Strategy. The NES recognizes the link between energy consumption and production and environmental externalities and seeks to develop energy policies that are beneficial to the environment. There are several key areas in which the NES enhances environmental protection, including the mitigation of emissions of greenhouse gases.

The NES proposes significant regulatory reform in the electric utility industry that will encourage investment in cleaner and more efficient energy sources. PURPA (Public Utility Regulatory Policy Act) reform will encourage renewable energy production providing market access to renewable energy. In addition, the NES encourages utilities to consider investing in efficiency rather than new power production, using Integrated Resources Planning (IRP).

The NES proposes natural gas pipeline regulatory reform that will lower natural gas prices and encourage the use of this naturally clean fuel. Likewise, natural gas import and export deregulation should lead to increased gas use here and abroad.

In the area of commercial and residential energy use, the NES recognizes that DOE efficiency labeling programs will help both the commercial and residential lighting and appliance buyers choose the efficient technology that is right for them. A similar policy will encourage home mortgage lenders to share energy efficiency ratings with prospective home buyers.

In the area of transportation, alternative fuel requirements for fleets will help further the alternative fuels provisions of the Clean Air Act to reduce ambient ozone and carbon monoxide in our cities, and decrease our dependence on imported petroleum. However, the impact of these provisions upon greenhouse gas emissions will likely be small or negligible. Also, outreach and technical assistance will help states, cities, and private industry to initiate accelerated scrappage programs to remove old, high polluting vehicles from the road. Finally, a change in the tax code will allow employers to increase the tax-free subsidies they give their employees for riding public transit, van-pooling, and ride-sharing.

Overall, the NES recognizes the importance of continued federal R&D funding to enhance formation of more energy-efficient technologies. Significantly increased funding for research and development into efficiency technologies will help move the U.S. into a more energy efficient future.

EPA is actively engaged in the analysis and promotion of energy efficiency goals. We are helping States to examine how to incorporate environmental externalities into rate-setting procedures of electric utilities. In addition, we are analyzing the contribution that demand side management techniques can play in reducing electricity and natural gas use, which in turn reduces many environmental pollutants such as sulfur oxides, nitrous oxides and carbon dioxide. Considerable interest is being expressed in the levels of efficiency that can be achieved in the transportation sector, particularly the light-duty vehicle fleet, and what are costs of various policies that increase fleet efficiency. Further, EPA is examining how recycling can reduce energy usage. On the supply side of the energy equation, EPA is examining what technologies can be encouraged to provide useable sources of energy in an environmentally benign way.

ELECTROMAGNETIC FIELDS

SENATOR MIKULSKI: A recent study by researchers at the University of Southern California suggest that proximity to powerlines may increase the risk of childhood leukemia. This study would seem to support findings of an EPA report that said electromagnetic fields from electric power lines are a possible cause of cancer.

What is EPA doing to address this important issue?

ANSWER: The Office of Research and Development (ORD) is taking several actions to address this issue. The draft EPA document entitled: "Evaluation of the Potential Carcinogenity of Electromagnetic Fields" is currently under review by the Science Advisory Board (SAB). When the SAB review is received, EPA will revise the current draft based on the SAB recommendations and any additional information such as the University of Southern California study which became available since the original draft.

ORD is also preparing a document describing a potential research plan for Electromagnetic Fields. The purpose of this document is to identify the research that might be needed to determine the health risk from EMF exposure and how to effectively limit exposure to EMF if necessary. This document will include sections on health effects, exposure, and control technology. The health effects chapter will discuss human and laboratory studies needed to assess concerns regarding cancer, neurological, reproductive, and developmental effects, and immune system effects. This document will be used to help prioritize our research program and build a consensus on the most critical research areas.

In addition, ORD is supporting the Health Effects Institute's (HEI) conduct of a feasibility study which will determine if HEI should undertake a research program to determine if there are health effects associated with exposure to EMF. This study will be completed in 1991 and will identify the role HEI would play in supporting or conducting research in this field and recommend the direction of future HEI endeavors in this area.

When these analyses are complete we will make the final determination on our research program priorities. However, our initial belief is that research to clarify the relationship, if any, between EMF exposure and cancer should be our highest priority. Specifically we believe our role may be to support research to improve our understanding of the biological mechanisms involved in cancer initiation or promotion processes. This information would be beneficial in identifying the biological activity of EMF which would result in: 1) more accurate determination of the potential risks and 2) lead to appropriate control strategies, if necessary.

ELECTROMAGNETIC FIELDS

SENATOR MIKULSKI: How is the $750,000 appropriated in FY 91 for EMF research being spent?

ANSWER: The Office of Research and Development (ORD) plans to award $525,000 of the $750,000 appropriated in FY91 to the Health Effects Institute (HEI) to conduct a feasibility study which will determine if HEI should undertake a research program on the health effects resulting from exposure to EMF. This study will be completed in 1991 and will: 1) based on an analysis of ongoing studies and existing knowledge identify the specific research needs to determine the relationship between EMF exposure and human health; 2) identify the role HEI would play in supporting or conducting research in this field; and 3) recommend the direction of future HEI endeavors in this area.

The remaining $225,000 will be expended to complete the draft EPA research agenda for EMF, evaluate the need to conduct a non-cancer health effect assessment on EMF exposure, and to convene a workshop to coordinate EPA efforts.

SENATOR MIKULSKI: How is EPA coordinating with other federal agencies including DOE and NIH? What agency is taking the lead on this research?

ANSWER: In order to provide a common base of knowledge from which a strategy regarding EMF and its potential health effects can be built, the Office of Research and Development (ORD) is currently preparing a document describing a potential research plan for EMF. The purpose of this document is to identify the research needed to determine the health risk, if any, from EMF, exposure and how to effectively limit exposure to EMF if necessary. We intend to use this document along with other reports and our knowledge of ongoing research to select the most crucial areas in which to focus EPA supported research. This document is scheduled to be completed in late 1991. An initial draft of the research plan has been reviewed by scientists in DOE, NIH, NIOSH, HHS, NIEHS, DOD and numerous expert scientists in the field. The final document will be provided to these organizations and serve as a focal point of a workshop to: identify ongoing research in both the public and private sector, prioritize and select areas of research focus for EPA, and coordinating ongoing public and private research. At the present time no single federal agency has been designated as the lead agency. However, we recognize the need to coordinate with other federal efforts and have established a process to ensure this takes place.

COASTAL AMERICA

SENATOR MIKULSKI: The budget requests $6 million for a new interagency initiative called Coastal America for protection of coastal resources. Please describe this new initiative, the role of the various agencies involved, and how activities will be coordinated and made consistent with existing plans and activities under state water quality and coastal zone management programs. Please provide a specific breakdown of how the $6 million will be spent in FY 1992.

ANSWER: Coastal America is a joint $23 million initiative, among EPA, NOAA, the Corps of Engineers, and the Department of the Interior. The goal of Coastal America is to demonstrate successful models of action to conserve, protect, maintain, and restore the Nation's coastal living resources. The initiative will ensure cooperative management at the national, regional, and watershed levels, focusing action on three major problems - habitat degradation and loss, nonpoint source pollution, and contaminated sediments.

The creation of Coastal America complements other Administration actions to protect coastal living resources (such as targeted wastewater treatment grants to the five coastal cities with the greatest unmet secondary treatment needs), and will integrate existing Federal authorities and programs with state, local, and nongovernmental. The four agencies' collective scientific and management expertise will be brought to bear on known problems and management issues that are not currently being addressed or those that may fall outside the scope of any one agency. These efforts will ensure that our stewardship of coastal living resources is coordinated, efficient, and successful. As such, there will be new projects targeted at existing needs identified by the Coastal America partners as requiring interagency action.

Specific action projects under this initiative will be selected through a cooperative process involving Federal agency representatives from Headquarters and field offices and the coastal states. Within each coastal region, priorities will be established jointly by the Federal and state partners in the Coastal America initiative. State involvement in priority setting and project identification and selection will ensure coordination and consistency with ongoing state water quality and coastal zone management programs.

The $6 million in EPA funds for Coastal America is intended to fund the above action projects. However, it is too early to list specific EPA implementation activities under Coastal America, as no FY 1992 projects have been selected or funded yet. Details of the project selection process are still under discussion, and some initial candidate projects have been identified. Among the likely criteria for project selection are multiple party involvement, focus on one of the three major problems, and expected benefits to living resources. EPA will add its expertise in wetlands management, nonpoint source control, nutrient control, contaminated sediment issues, and estuarine management to Coastal America projects as appropriate.

WATER OFFICE REORGANIZATION

SENATOR MIKULSKI: What is the status of the reorganization of the Office of Water and when will it be completed?

ANSWER: After Agency review and comment, the Assistant Administrator for Administration and Resources Management approved the proposed reorganization on March 13, 1991 and forward it to EPA Deputy Administrator Habicht, who concurred in the reorganization. The reorganization was then forwarded to the Unions representing EPA employees for review. We anticipate implementation by mid-April if there are no extensive negotiations as a result of Union review.

SENATOR MIKULSKI: How will the new organization be more efficient and effective?

ANSWER: The new Office of Water structure will make the Office more efficient and effective by: integrating and balancing program functions better across the Office; consolidating and strengthening science/technology support; focusing clearly on ecological risks; and improving our ability to target geographic areas and ecosystems.

The Office moves from two staff offices and seven program offices to one staff office and four program offices. The reorganization reduces the number of division-level organizations from 21 to 13, and branch level organizations from 46 to 41. Consolidation of Office-level management positions is offset by increases in sub-branch-level supervisory positions, with the net effect of shifting supervisory responsibilities to the working level, closer to the Office of Water's customers and clients. In terms of impact on staff, every Office of Water employee retains his or her position and promotion potential in the reorganization.

MEDICAL WASTE TRACKING DEMONSTRATION

SENATOR MIKULSKI: What is the status of the Medical Waste Tracking Demonstration Program? What interim conclusions can you draw so far?

ANSWER: As required by the Medical Waste Tracking Act (MWTA), the Agency promulgated an interim final rule in March 1989 for medical waste management, effective in four States (New York, New Jersey, Rhode Island, Connecticut) and Puerto Rico. The provisions expire in June 1991. The agency has published two interim reports to Congress on medical waste management in the United States and is preparing the Final Report to Congress which will be available later this year. The results from the research and data gathering activities will be included in the final report. EPA's preliminary conclusions are that the MWTA has 1) been successful in raising the awareness of the public and the regulated community regarding medical waste management; 2) indirectly encouraged the development of innovative treatment technologies for medical waste; 3) encouraged a reevaluation of self-generated home health care waste management procedures; 4) contributed to the reduction of beach washups by encouraging States to improve waste incident procedures; and 5) contributed to the development of programs in non-covered States and foreign countries. Additionally, information which is being gathered will assist EPA and Congress in making more informed decisions regarding medical wastes.

EPA issued the Medical Waste Enforcement Strategy in March 1989. In September 1989, the Regions were delegated authority to issue complaints and orders. Since this time EPA and the states have conducted over 1700 inspections of generators and transporters, issued over 550 warning letters and taken over 40 enforcement actions. The penalties prescribed by these enforcement actions total over $1 million. In addition, EPA has provided on-going Health and Safety Medical Waste Inspector Training.

MEDICAL WASTE POLICY

SENATOR MIKULSKI: A recent report issued by the Office of Technology Assessment said that there is still much confusion and inconsistency with medical waste policy. The report recommended Congress desingate an agency "to coordinate and clarify the Federal Government position on medical waste issues." The report also recommended more recycling and waste reduction before burning or chemical processing; that medical wastes be more clearly defined; and that more precise information on the disposal of medical wastes be made available. What do you think of OTA's recommendations? What agency should be responsible for coordinating and clarifying the government's position?

ANSWER: The report prepared by the Office of Technology Assessment (OTA) highlighted a number of national medical waste management issues which are being evaluated. As required by the MWTA, the final Report to Congress will include information related to the medical waste generator population, the potential for waste minimization (including recycling and waste segregation), an evaluation of available and potentially available treatment technologies, and medical waste management options for small quantity generators and home health care generators. The Final Report to Congress is due in September, 1991.

As indicated in the OTA report, there are several Federal agencies which have different definitions for medical waste. Additionally, some states not participating in the demonstration program have developed various definitions for medical waste. EPA does not have a position on whether Federal government action is needed to clarify the definition of medical waste or whether a Federal agency should be designated to take the lead role on medical waste issues.

PESTICIDES REREGISTRATION

SENATOR MIKULSKI: The 1988 amendments to the Federal Insecticide, Fungicide and Rodenticide Act established a timetable for the reregistration of older pesticides which was originally required by the 1972 amendments to FIFRA. How many pesticides or active ingredients are subject to reregistration?

ANSWER: There are 1,153 active ingredients which have been grouped into 611 chemical cases which are subject to reregistration. Currently, only 417 chemical cases (671 active ingredients) are supported by registrants and 194 chemical cases (482 active ingredients) are unsupported.

SENATOR MIKULSKI: How many reregistration decisions have been completed prior to the 1988 amendments?

ANSWER: Zero. The definition of reregistration eligibility for a chemical specifies that (1) the data base for that chemical is "substantially complete," and (2) that no triggers for Special Review or cancellation have been hit. Prior to FIFRA 88, 194 Registration Standards were completed between 1980 and 1988. These chemicals now constitute List A. They are being reviewed to determine whether they meet our new definition for reregistration eligibility, and if so, REDs (reregistration eligibility documents) are being developed.

SENATOR MIKULSKI: How many reregistration decisions were completed in 1989, 1990, and 1991?

ANSWER: For FY 1989 and FY 1990, no registration decisions were completed. In FY 1991 we anticipate completing 15 reregistration decisions of which, 9 are from List A and the remaining 6 are from Lists B,C.and D. The first two years were spent in a massive effort gearing up the reregistration program - developing the reregistration process, developing computerized tracking systems, buying PCs, hiring, etc. We are now in transition from this gearing up stage into full scale production.

SENATOR MIKULSKI: Do you believe EPA will be able to complete 30 in FY 92?

ANSWER: It does not appear that 30 decisions will be "ready to go" in FY 92. The decision pipeline is determined by the due dates of studies committed to by registrants. We anticipate that 12 List A chemicals will be candidates for REDs (Reregistration Eligibility Documents) in FY 92. We estimate that as many as nine List B,C,D chemicals may also be REDs candidates in FY 92. These estimates are based on the assumption that all studies submitted for these chemicals are received on schedule and are of acceptable quality. We are evaluating the status of all List A and B chemicals in the next several months, and these estimates might increase. However, we also expect several List C&D RED's to be ready to go. Our best estimate at this time, is that at least 20 REDs will be completed in FY 92.

REREGISTRATION FEES

SENATOR MIKULSKI: The FIFRA 88 amendments established fees to support accelerated reregistration of pesticides. The fees were based on estimates provided by EPA. Are your estimates for the cost of reregistration by 1997 still valid?

ANSWER: The Agency has reviewed the accelerated reregistration efforts mandated by legislation in 1988 and has determined that resource needs to complete the program are higher than what was originally anticipated. EPA is currently considering revised program cost estimates and their potential impact on reregistration outputs.

The resources to pay for most of the earlier estimated $307 million 9-year reregistration effort mandated by FIFRA 88 were to come from the following sources: 1) a one-time reregistration fee on each active ingredient 2) an annual registration maintenance fee for each pesticide registration; 3) annual funding from the EPA budget; and 4) earnings from interest accrued by investments made from the FIFRA Revolving Fund.

SENATOR MIKULSKI: Are you having any problems collecting fees from registrants?

ANSWER: After significant drop-out of registered products, due to voluntary decisions or cancellations due to non-payment, maintenance fee receipts have stabilized and are expected to remain in the $11.0 million range until maintenance fee caps are eliminated as proposed in the FY 92 budget. For reregistration fees, there have been significant delays due to difficulties determining market share, pooled payments, waivers, etc. However, we have now collected over 90% of the projected amount of $29.4 million. Industry has been cooperative for the most part in paying bills once accurate billings have been made.

In FY 89, maintenance fee revenues collected only $7.4 million. In FY 90, maintenance fees collected amounted to $11.5 million instead of the anticipated $14.0 million. We are estimating collections of $11.0 million in 1991. EPA would like to eliminate the statutory fee caps which limit total annual registration maintenance fees on any single company to $35,000. Eleven ($11.0) million dollars is the projected annual amount with the existing fee caps. Raising the caps is proposed in the FY 92 budget, and is intended to allow EPA to raise the full $14 million annually, which was established as the goal in the 1988 FIFRA amendments.

LOCALITY PAY

SENATOR MIKULSKI: There is $6 million in your budget request for locality pay for New York, San Francisco, and Los Angeles. What would be the cost of providing locality pay for the Washington, D.C. area?

ANSWER: The cost of providing an 8% locality pay increase for EPA employees in the Washington, D.C. area is estimated at costing: $34.7 million.

DRUG TESTING PROGRAM

SENATOR MIKULSKI: What is EPA's policy with respect to drug testing of employees? How often do you test employees, and how do you determine who is tested? How do you ensure the privacy and dignity of the employee? What action do you take if the results of an employee's drug test are positive?

ANSWER: EPA has an approved drug testing plan; however, we are in the process of translating the plan into an on-going program. As a consequence, we have not yet engaged in employee drug testing.

MINORITY CONTRACTORS

SENATOR MIKULSKI: What progress has EPA made in implementing the goals of providing 8% of the value of all prime and subcontracts for minority and women-owned business, as required by the 1991 VA, HUD, and Independent Agencies Appropriations Act?

ANSWER: It is too early to tell statistically, but EPA has issued written notification of the new goals for contracting with Minority- and Women-owned businesses to all EPA program offices and contracting staffs. Every EPA contractor has received a written notice reminding them of their obligations in the subcontracting arena. EPA is committed to continue to identify and provide contract opportunities for these businesses. We expect few problems in achieving the goals as EPA has enjoyed a good record in the past. In the assistance area, EPA is incorporating a special provision into all awards that clearly defines the Administrator's Disadvantaged Business Enterprise (DBE) contracting goals.

WOOD PRESERVING INDUSTRY

SENATOR MIKULSKI: EPA recently issued standards for the Wood Preserving Industry, using a "RCRA-only" approach as opposed to a multi-statute approach. The Wood Preserving Industry believes that the time in which they will be required to retrofit their operations to conform with the new regulations is inadequate, and that the costs will be exorbitant. Why hasn't EPA been willing to talk with industry representatives about their concerns? How is EPA now working with industry to address their concerns?

ANSWER: The Agency is working with the wood preserving industry to resolve their concerns. Complete consideration was given to public comments to the proposed rule which was published in the Federal Register on December 30, 1988. A sixty-day extension to the comment period was provided at the request of the American Wood Preservers Institute (AWPI). Several modifications were incorporated into the final rule based on comments from members of the wood preserving industry. Following promulgation of the final rule, which was published in the Federal Register on December 6, 1990, the Agency presented the provisions of the rule to representatives from the preservative manufacturers and held a series of compliance workshops for members of the wood preserving industry in Atlanta, Seattle, and Washington, DC, in conjunction with the AWPI. There were discussions with the industry by phone in January and EPA met with the AWPI in February 1991 specifically to discuss their concerns regarding implementation of the final rule.

In the February meeting with the AWPI, members of the wood preserving industry raised five issues they would like EPA to address in a modification of the December rule. EPA agreed with the industry in February regarding a schedule for sharing information and agreed to a subsequent meeting in March. That meeting occurred March 25. The primary issue is extension of the effective date of the rule. We hope to make a decision regarding compliance deadlines by the end of April or early May. On other issues, we are still evaluating what action is appropriate.

WATER CONSERVATION

SENATOR MIKULSKI: What is the status of the Agency's efforts to include water conservation in environmental protection strategies?

ANSWER: EPA continues to promote water use efficiency in a variety of areas. These areas range from incorporating water conservation in the plumbing specifications for Federal buildings to development of computer programs to assist local officials in selecting conservation strategies. Projects to be funded from the $500,000 provided by Congress for water conservation have been selected and will be initiated this fiscal year.

Efforts are also underway to include water use efficiency considerations in the Agency's programs. One example is emphasis given to water conservation in the new Municipal Wastewater Pollution Prevention program as an important tool to deal with emerging capacity problems of wastewater treatment plants. With a view to incorporating water conservation in NPDES permits, EPA is undertaking a study of the effects of water conservation on the water quality of receiving streams under low flow conditions. Finally, a project is underway to revise EPA's guidelines for the level of treatment necessary for various reuse applications of wastewater.

SENATOR MIKULSKI: Can you document the potential wastewater treatment and drinking water cost savings that might result from widespread implementation of conservation and flow reduction strategies by municipalities?

ANSWER: EPA has not undertaken a formal effort to quantify the potential wastewater-related monetary savings if water conservation were implemented nationwide. However, the National Wildlife Federation (NWF) has made the rough assumption that the projected wastewater treatment growth need could be reduced by 10% ($1.5 billion). While we have not reviewed their analysis in detail, our understanding is that the estimate was derived by assuming that indoor water use could potentially be reduced by around 25% if water efficient plumbing fixtures were installed in new construction nationwide. The NWF has further assumed that this 25% flow reduction would translate into a 10% savings in the capital costs associated with wastewater treatment plant expansion necessitated by projected population and wastewater growth. These capital costs were assumed to be the difference between current (January 1988) and projected (year 2008) wastewater treatment needs as estimated by EPA, resulting in a figure of $15.6 billion.

We agree with the NWF that the percentage of capital savings will be less than the percentage reduction in wastewater flows. Reasons for this include: (1) in collection systems with high amounts of infiltration and inflow, the overall performance and sizing of wastewater treatment facilities will not benefit measurably from efficiencies in water use; (2) a portion of the capital costs associated with treatment facility construction is not sensitive to the size of the facility(ies) to be built; (3) wastewater treatment facilities expansions may be designed to address loading the concentrations before they reach their hydraulic design capacity; and (4) the implementation of water conservation programs represents a cost to the community, which must be considered when determining net cost savings.

Reduction in Drinking Water Treatment Needs: EPA has estimated that it will cost about $10 billion (capital costs) nationwide for existing facilities to comply with the requirements of the 1986 amendments to the Safe Drinking Water Act between 1990 and the year 2000. We do not expect that water conservation will result in significant savings in most cases where existing facilities must be upgraded to meet the new treatment requirements. However, measurable capital cost savings can be assumed for future treatment facility expansions where conservation programs are implemented. The Agency estimates that water supply utilities will have to spend $82.6 billion to meet normal repair/replacement and capacity needs between 1990 and the year 2000, in addition to the costs represented by the requirements of the 1986 amendments. Further benefits which we would expect from water conservation include the ability to defer expansion of existing treatment facilities as well as deferral of new source development.

RESEARCH AND DEVELOPMENT PROGRAM

SENATOR MIKULSKI: Describe any changes in EPA's overall approach to research and development, in light of the Science Advisory Board's risk reduction report, as well as any modifications to the role of the Office of Research and Development.

ANSWER: To deal with the challenges of the 1990s and beyond, EPA is rethinking its environmental protection agenda. EPA's policy goals have shifted from controlling pollution after it has been generated to protecting the Earth's resources through changes in production patterns and life patterns that are inherently less stressful to the environment. In addition to the obvious benefits gained by preventing pollution in the first place, pollution prevention technologies often cost less and are more effective than traditional pollution control strategies.

EPA is also increasingly focusing on cross-media issues. During the 1970s, a number of laws were passed--the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, and others--that artificially separated one environmental problem from another. After 20 years of experience, we now know that this compartmentalization is inefficient at best, and counterproductive at worse. Water quality, for example, is affected by toxic air pollutants emitted hundreds of miles away and by non-point source run-off.

It is critically important for U.S. environmental policy to become more integrated and focused. Addressing environmental pollution problems requires not only linkages among many different EPA offices, but also the coordinated, integrated efforts of a host of Federal agencies, state and local governments, the private sector, academia, and concerned citizens. EPA is therefore working to more closely involve the academic and industrial communities, as well as other government agencies, in our programs. Joint cooperation among all the different sectors involved in environmental protection can only multiply our effectiveness.

These new ideas are having a profound impact on the Agency and on EPA's research program. Our research program has been undergoing major changes in the past few years. This is due, in part, to a 1989 EPA Science Advisory Board report that suggested key alterations in our research program. One of the report's many recommendations was that we establish a "core" program to look at fundamental scientific and technological issues of importance to environmental quality. We are implementing this Science Advisory Board recommendation and we have increased our long-term fundamental research to 25 percent of our annual budget. We are well on the way to a more balanced and more comprehensive research program.

In addition to these changes in the way we do business, all EPA programs are now involved in a broad, long-range strategic planning effort aimed at focusing our attention and resources on areas of greatest risk and greatest potential for risk reduction. As this philosophy becomes ingrained at the Agency, EPA will increasingly be in a position to provide information to other government agencies, and to the public at large, on the most promising opportunities for reducing environmental risk.

The process of strategic planning has proven to be very valuable at EPA and will, in the future, direct our research agenda. We are developing a strategic research plan that will assist in guiding our research program. Some of the major themes outlined in the current plan are:

- Ensuring that our research program reflects the highest risk areas;
- Placing greater emphasis on ecological research and ecological risk assessment;
- Aggressively evaluating innovative approaches to risk reduction, both for pollution prevention and pollution control that offer "order of magnitude" improvements over current practices;
- Improving methods for assessment of health and ecological risks, with a special focus on comparative risk. These recommendations made by the Science Advisory Board were listed in the Board's report entitled "Reducing Risk: Setting Priorities and Strategies for Environmental Protection";
- Establishing a strong program of technology transfer; and
- Establishing productive working relationships with other Federal agencies, industry, academia, and other countries to help leverage our resources and take advantage of outside expertise.

EPA must continue to act as a science agency as well as a regulatory agency. EPA's goal is to become a premier science organization, where high quality science is focused on priority environmental problems, and where we can make a significant contribution to the improvement of environmental quality.

RESEARCH AND DEVELOPMENT PROGRAM

SENATOR MIKULSKI: Does EPA believe that the current U.S. investment in environmental technology R&D is sufficient to provide an adequate base for environmental protection?

ANSWER: As a general matter, EPA believes that environmental technology is currently able to substantially protect human health and the environment. Investments in environmental technology R&D historically yield significant dividends in the cost effectiveness of our nation's environmental protection programs. Current investment levels should ensure that our nation maintain its preeminence in the environmental technology field, continue to provide its citizens with an improving environment, and yet do so at costs that allow the American economy to continue to expand.

CANCER RISK/PERCHLOROETHYLENE

SENATOR MIKULSKI: I understand that EPA is currently revising its cancer risk classification for perchloroethylene, a chemical commonly used in the dry cleaning industry. Is this decision consistent with new EPA regs for perchloroethylene pursuant to the Safe Drinking Water Act and its reportable quantity standards. If not, please explain.

ANSWER: In July 1985, the Agency published a Health Assessment document for Tetrachloroethylene (Perchloroethylene) in which Perchloroethylene was classified as a possible human carcinogen (Category C) in accordance with EPA's Guidelines for Carcinogen Risk Assessment (published in the final form in September, 1986). In 1986, a draft "Addendum to the Health Assessment Document for Tetrachloroethylene" was prepared by the Office of Health and Environmental Assessment (OHEA) in which perchloroethylene was reclassified as a probable human carcinogen (Category B2) in light of the test results by the National Toxicology Program. The draft addendum received peer review by the EPA's Science Advisory Board (SAB) on two occasions. The first SAB's response in a letter to EPA Administrator Lee Thomas (January 17, 1987) was "that perchloroethylene belongs in the overall weight-of-evidence category C (possible human carcinogen)." The SAB's response to the second request for advice from Administrator Thomas (August 3, 1987 EPA letter to the SAB) was that "the overall weight evidence lies on the continuum between the categories B2 and C of EPA's risk assessment guidelines for cancer" (March 9, 1988 SAB letter to Administrator Thomas).

OHEA has recently prepared the February 1991 draft "Response to Issues and Data Submissions on the Carcinogenicity of Tetrachloroethylene (Perchloroethylene)." This draft document reviews and evaluates recently published studies on perchloroethylene carcinogenesis and the issues considered by the SAB during its review of the 1986 draft "Addendum to the Health Assessment Document for Tetrachloroethylene." OHEA again concludes in this draft document that perchloroethylene should be classified as a probable human carcinogen (Category B2). This draft document was presented to SAB on March 26, 1991. We are waiting for SAB's report.

This decision is consistent with EPA's new regulation for perchloroethylene pursuant to the Safe Drinking Water Act. Under this rule, perchloroethylene is placed under Category I, i.e., it exhibits strong evidence of carcinogenicity considering weight of evidence, pharmacokinetics, and exposure. The issue of cancer classification for perchloroethylene, however, was not discussed in this rule.

ECONOMIC IMPLICATIONS TO DRY CLEANING INDUSTRY

SENATOR MIKULSKI: What are the economic implications to the dry cleaning industry of revising this classification?

ANSWER: Revising the cancer risk classification for perchloroethylene in itself would not have any direct economic impacts upon the dry cleaning industry. Rather, economic impacts would depend upon whether EPA in time decides to implement regulatory actions on perchloroethylene, a decision which is largely independent of the specific cancer risk classification.

EPA'S COMMUNICATIONS WITH DRY CLEANING INDUSTRY

SENATOR MIKULSKI: What efforts has the Agency made to discuss these implications with the industry?

ANSWER: Since the cancer risk reclassification has no direct impact on economic implications for the industry, and since the Agency has yet to make decisions about regulatory actions, any discussions with industry about potential economic implications are premature.

WETLANDS

SENATOR MIKULSKI: At the request of the Domestic Policy Council Wetlands Task Force, EPA is reportedly preparing a new "performance-based" approach to wetlands protection whereby states would be given greater flexibility for achieving national wetlands protection goals. What is the value of this approach?

ANSWER: As part of the ongoing progress of the Domestic Policy Council's Wetlands Task Force, the Administration is exploring a number of approaches. The objective is to identify one or more courses of action that will more efficiently and more effectively protect our nation's important wetland resources.

SENATOR MIKULSKI: Does it represent a significant departure from the current statutory scheme?

ANSWER: We are not now in a position to characterize with any specificity how any Domestic Policy Council product would relate to the current statutory scheme. Giving states more flexibility in administering their wetlands regulatory programs could represent a departure from the current statutory scheme. Given the reluctance of States to assume the current Section 404 Program (only Michigan has assumed the program since 1977), we are interested in options that will encourage greater State participation while ensuring adequate protection of our valuable and dwindling wetland resources.

SENATOR MIKULSKI: How does it fit with Maryland's current General Permit to regulate wetlands of less than 10 acres?

ANSWER: The intent of any Domestic Policy Council product would be to strengthen Federal/State partnerships, so we would not adopt an approach that would have an adverse effect on existing arrangements that are working successfully.

SENATOR MIKULSKI: How will the agency ensure consistency across the states?

ANSWER: Consistency would be achieved by establishing national policies, priorities, guidelines, and goals for wetlands protection, including a description of what the goal of no-net-loss means within a State. Cooperative agreements would be developed with each State to specify the planning and protection tasks and actions to implement policies, priorities, guidelines and goals.

SENATOR MIKULSKI: Are you concerned local pressure will cause states to be more concerned with protecting development over environmental interests?

ANSWER: This is a risk, however, the current wetlands protection approach is not being particularly successful either, with an estimated 300,000 or more acres of wetlands being lost each year. A number of states have recently enhanced their protection of wetlands, so there is some reason to believe that affording states greater flexibility may produce positive results for the nation's wetlands.

SENATOR MIKULSKI: In recent speeches, Mr. Reilly has indicated his support for a "classification approach" to wetlands protection whereby wetlands would be classified according to their values and priorities would be set for wetlands protection. What is the purpose of this approach?

ANSWER: The purpose would be to set priorities for wetlands protection that would direct our energies and resources to the most important environmental risks. The Administration has no official position on this concept at this time. Classification (also called "categorization") of wetlands could improve the regulatory program by focusing Agency resources on the protection of the most valuable wetlands, by providing greater consistency and predictability in the permit review process, and by reducing regulatory burden. It is important to recognize that the Section 404 regulatory program already incorporates various methods of classifying wetlands based on their relative functional value.

SENATOR MIKULSKI: What criteria would be used to rank wetlands and who would make those determinations?

ANSWER: Specific criteria and implementation procedures are as yet undetermined, but represent key issues requiring resolution as the Agency determines whether and how to support a classification system. However, it should be noted that the criteria would be based, among other things, on the functions and values of wetlands.

SENATOR MIKULSKI: How do you respond to arguments, some made by EPA staff, that the federal agencies lack the scientific expertise to assess the value of a wetland?

ANSWER: The Agency recognizes the importance of a strong scientific basis for any new classification approach, including valid methodologies for assessing wetland values. There are wetland functional methodologies currently designed for use nationally. However, we recognize that these need improvement to reflect regional or geographic variations; we believe such improvements will facilitate development of a classification scheme. Assessing wetland values is an important component of the Agency's wetlands research program and we expect the results of our research will play a key role in shaping development of a classification scheme.

SENATOR MIKULSKI: How do you prevent the triage of wetlands in the bottom tier?

ANSWER: The Agency needs to construct carefully any classification system so as to avoid inadvertently removing appropriate protection measures for wetland resources. An important issue to be addressed will be achieving a balance between the potential benefits to the program (e.g., greater efficiency and more focused attention to wetlands of the highest environmental priority) and the potential loss of the functions and values provided by wetlands at the lower end of a classification scale.

SENATOR MIKULSKI: How does the approach fit with the President's no-net-loss of wetlands goal?

ANSWER: Development of a classification approach must be done in light of the President's national goal of no-net-loss, and the system will be incorporated within a broader range of wetland protection initiatives (such as comprehensive planning) intended to implement the no-net-loss goal.

SENATOR MIKULSKI: Are legislative changes to existing laws required?

ANSWER: It is too early to make this determination. Depending on the results of current investigation of options for developing a classification approach, successful implementation may not be possible within current statutory parameters. The Agency will evaluate the potential need for statutory revisions, and, in the event that changes are required, hopes to work closely with Congress in developing a system that provides the greatest amount of program efficiency and protection of our valuable wetland resources.

LAND BAN OF HAZARDOUS WASTE/RCRA

SENATOR MIKULSKI: The ban on land disposal of hazardous waste was instituted during the 1984 reforms to the Resource Conservation and Recovery Act and has played a central role in establishing a system of preventive hazardous waste management in this country. The rule to implement the final phase of the land ban program in May, 1990 prompted considerable litigation over the treatment standards for metal bearing wastes (i.e., lead, chromium) At the time the rules were issued, the Agency pledged to revisit the treatment standards after conducting additional studies on their treatability. When does the Agency plan to propose changes to the treatment standards for metal-bearing wastes?

ANSWER: When establishing treatment standards for characteristic metal wastes in May 1990, the Agency acknowledged that available data would not support setting treatment standards for metals below the characteristic levels. The difficulties acknowledged included the inconsistency in the treatment data, and the limited data available to the Agency. The Agency indicated the possibility of revisiting the treatment standards for metal wastes in the final rule, by stating: "EPA plans to re-examine these standards as new information becomes available." (55 FR 22654)

The Agency is currently working on two advance notices of proposed rulemaking (ANPRM) that are expected to be published in the Federal Register this spring. These ANPRMs primarily solicit new information and additional treatability data on newly listed wastes and contaminated soil and debris, and also address the characteristic metals. After the Agency receives data in response to these ANPRMs, it will evaluate whether it is appropriate to propose revisions to the characteristic metal treatment standards.

ANNAPOLIS REGIONAL LABORATORY

SENATOR MIKULSKI: What is the status of the Region III laboratory in Annapolis, Maryland? Does it meet the Region's needs in terms of space, water supply, sewer service, and other factors?

ANSWER: Since construction in 1980, major problems have been encountered which have not been fully resolved by the landlord. EPA was cited by the State of Maryland for violating the rules that regulate the disposal of lab waste water. The public sewer system does not extend to the lab; therefore, the lab was discharging waste water into the septic system which was unauthorized by the State due to the lack of a permit. As an interim measure, we have established a collection system for the laboratory waste and have made arrangements with a contractor to have it taken to a treatment plant for disposal. The water supplied from a well is not potable, so we have arranged for bottled water to be brought in. These measures however, are expensive. Other problems have included an undersized HVAC system, and an inoperable gas distribution system.

SENATOR MIKULSKI: Does the Annapolis laboratory meet EPA's current mission? How has EPA's mission changed since the Annapolis laboratory was built in 1980? How much of the work benefits the Chesapeake Bay?

ANSWER: The laboratory was originally designed and constructed as an analytical support laboratory for EPA's water programs. It now supports the hazardous waste, toxics, and air programs. Analyses for these programs are for environmental monitoring and enforcement purposes.

The Chesapeake Bay drainage basin is almost entirely within Region III. This basin is over 65 percent of the Region. Protection of the Bay is directly linked to monitoring and enforcement of point and non-point sources of pollution in all environmental media (water, land, air). The Chesapeake Bay is the beneficiary of virtually all the analyses performed by the laboratory.

SENATOR MIKULSKI: What plans are underway to obtain new laboratory space in the Annapolis area to replace the existing facility when the lease expires in 1995? Could the current facility be modified to meet EPA's needs? What would it cost?

ANSWER: The Program of Requirements (POR) for the new lab is being prepared, and GSA is preparing a Prospectus Development Study (90% complete). The current facility could not be modified to meet EPA's future needs. There is insufficient land available for expansion of the current lab and there has been an explosion of commercial development in the surrounding neighborhood. Any major alterations to the existing building would require shutting down the laboratory for an extended period of time, which is unacceptable to EPA.

SENATOR MIKULSKI: What is the role of EPA and GSA in acquiring lab space. Does EPA have independent authority to acquire lab space?

ANSWER: GSA is the primary provider for agencies that do not have their own real estate acquisition authority. GSA has denied three requests by EPA for delegation of leasing authority to procure facilities in Athens and Annapolis, although authority was given for new labs in Houston and San Francisco. EPA does not have the necessary authority to directly acquire (construct, lease, or purchase) laboratory facilities or other special purpose space.

SENATOR MIKULSKI: Please describe the proposed facility being considered for Region III, including size, capabilities, and features?

ANSWER: Once the Program of Requirements (POR) is completed in July 1991, we will be able to provide this information. In addition to providing a replacement laboratory for the Annapolis Laboratory, we are also considering whether efficiencies could be achieved by merging the requirements for the Office of Pesticides and Toxic Substances Analytical Chemistry Laboratory, now located in Beltsville, Maryland into the new facility.

SENATOR MIKULSKI: How many people work at the current facility? How many are located off-site and why are they located off-site? Are there negative effects of having personnel work off-site?

ANSWER: The total on-board staff including contractors is 98; 78 are located in the laboratory building proper which was designed for 55. The remaining 20 are located in commercial leased space at two other locations. Storage of records supporting Superfund are at a fourth location. More efficient operations would be achieved through consolidation by eliminating redundant equipment (photocopiers) and travel time.

SENATOR MIKULSKI: How has future growth for space and staffing been factored into the new laboratory proposal.

ANSWER: The design service life for the facility is 20 years. Staff growth was projected for a 10-year period for the various activities conducted at the laboratory (analysis, quality assurance, contract support staff, and field operations).

The design of the building will provide for the addition of laboratory and office modules in the event additional staffing and laboratory demands exceed the 10-year projection.

SENATOR MIKULSKI: What is the estimated cost of the new facility? Why is the new Region III facility expected to be larger and more costly than the existing facility? How do costs of constructing or leasing lab space compare with office space? What is the minimum needed to proceed with design and land acquisition?

ANSWER: Once the Program of Requirements (POR) is completed in July 1991, we will be able to provide accurate cost data. On the average, laboratory space costs approximately $250 per gross square foot to construct, while office space construction costs about $105 per gross square foot. The reason for this cost differential is that laboratories have very sophisticated, complex building support systems (i.e., ventilation, mechanical, waste disposal).

SENATOR MIKULSKI: What is the timetable of events which must be completed to ensure that Region III can occupy new laboratory space when the current lease expires in April, 1995?

ANSWER: In order to occupy a new laboratory in April 1995, EPA would have to request funding in its FY 1993 Budget Request, and the Congress would have to appropriate the funds in the FY 1993 Appropriation Bill.

SENATOR MIKULSKI: What alternatives are available to Region III if a new facility is not completed when the lease expires?

ANSWER: The only option would be to extend the existing lease and continue occupancy of the current facility.

ANNAPOLIS REGIONAL LABORATORY

SENATOR MIKULSKI: How does Region III fit into the agency's overall plan for updating laboratory space?

ANSWER: EPA's top laboratory priority remains the consolidated laboratory complex at Research Triangle Park, North Carolina. Other priorities include a new laboratory on the University of North Carolina campus at Chapel Hill, which is almost completely designed with construction ready to begin in the next several months. We have been working closely with GSA to acquire new laboratories in Athens, Georgia; Annapolis, Maryland; and Chicago, Illinois. A masterplan study is underway at our Edison, New Jersey complex to determine what investments should be made there over the long-term. In the near future, we will need to take action with some of our leased facilities as the leases expire (Lexington, Massachusetts and Denver, Colorado). Our research laboratories in Duluth, Corvallis, and Las Vegas will all require significant investments to meet changing programmatic needs. The Congress has also directed us to acquire a site and begin design of a new facility for Bay City, Michigan.

EPA'S FACILITIES INFRASTRUCTURE

SENATOR MIKULSKI: EPA's entire infrastructure is deteriorating. All its buildings are now 20 years old? Does the Agency have an overall plan for replacing buildings? What are your priorities?

ANSWER: We are in the process of awarding a contract to assist us in developing a nationwide, long-term facilities masterplan for EPA. This effort will include both office and laboratory space that is owned and leased. The masterplan, to be continually revised as the Agency's mission changes and responsibilities increase, will serve as a guide for renovating and replacing EPA's facilities.

Our strategy is essentially risk-based. We focus first on the facilities in worst shape with the largest EPA program and employee impact. We also deal with lease expirations as they occur.

Finally, finding a new home for EPA Headquarters is the Agency's highest office space priority. EPA's top laboratory priority remains the consolidated laboratory complex at Research Triangle Park, North Carolina. Other priorities include a new laboratory on the University of North Carolina campus at Chapel Hill, which is almost completely designed with construction ready to begin in the next several months. We have been working closely with GSA to acquire new laboratories in Athens, Georgia; Annapolis, Maryland; and Chicago, Illinois. A masterplan study is underway at our Edison, New Jersey complex to determine what investments should be made there over the long-term. In the near future, we will need to take action with some of our leased facilities as the leases expire (Lexington, Massachusetts and Denver, Colorado). Our research laboratories in Duluth, Corvallis, and Las Vegas will all require significant investments to meet changing programmatic needs. We are in the process of acquiring land and designing a new facility in Bay City, Michigan.

QUESTION SUBMITTED BY SENATOR JOHNSTON

WETLANDS REGULATORY PROGRAM

SENATOR JOHNSTON: The purpose of my inquiry is to ascertain an understanding of the enforcement of the Clean Water Act, Section 404 program by the Environmental Protection Agency. I am specifically concerned about the level of the Agency's regulatory budget and more particularly how much of an increase is sought for enforcing Section 404 of the Clean Water Act.

I welcome the Administration's full explanation of this initiative (Section 404) as well as a justification of their budget request with respect to the enforcement process.

ANSWER: The Agency's FY 1992 budget request represents a continued commitment to ensuring protection of the nation's wetlands through the regulatory program authorized under Section 404. The Agency is requesting a total of 179 workyears and $6.4 million extramural for Regional and Headquarters regulatory activities. These activities include advance identification and special area management plans, analysis of mitigation banking concepts, permit review, review and resolution of elevated cases under Sections 404(q) and (c), development and evaluation of regulations and regulatory policies, and compliance monitoring, enforcement, and litigation support. Resources targeted specifically for enforcement activities would increase by four workyears under the request.

QUESTIONS SUBMITTED BY SENATOR LAUTENBERG

POLLUTION PREVENTION

SENATOR LAUTENBERG: The Administration's overall budget document for FY 1992 says on page Part Two-389 that "the Administration worked for passage of pollution prevention legislation..."

Please provide the Committee with all written correspondence and with dates of phone calls made by EPA and Administration officials to Senators urging passage of this legislation.

ANSWER: In early 1989, the Agency formed a workgroup to explore legislative ideas in pollution prevention. The group used as its starting points Senator Lautenberg's proposal and the similar measure by Representatives Wolpe and Schneider. Administrator Reilly discussed EPA's efforts in testimony before Chairman Lukens' subcommittee in May of that year. During 1990, EPA continued development activities in pollution prevention, broadening the scope to include ideas pertinent to municipal solid waste issues. EPA's draft proposal was under Administration review when the Pollution Prevention Act of 1990 was enacted.

EPA also testified on pollution prevention legislation on seven occasions in 1990, prior to the passage of the Pollution Prevention Act of 1990. A record of the dates, and committees the Agency testified before follows:

RECORD OF HEARINGS

TESTIMONY ON POLLUTION PREVENTION LEGISLATION

JANUARY 24, 1990

Subcommittee on Transportation and Hazardous Materials
of the
Committee on Energy and Commerce
U.S. House of Representatives

TOPIC: Resource Conservation and Recovery Act (RCRA) Issues.

JANUARY 29, 1990

Subcommittee on Natural Resources, Agriculture Research
and the Environment
Committee on Science, Space, and Technology
U.S. House of Representatives

TOPIC: Pollution Prevention Research.

APRIL 9, 1990

Subcommittee on Environmental Protection
of the
Committee on Environment and Public Works
U.S. Senate

TOPIC: Pollution Prevention in EPA Regions.

MAY 16, 1990

Consumer Subcommittee
of the
Committee on Commerce, Science and Transportation
U.S. Senate

TOPIC: Environmental Labeling.

JUNE 28, 1990

Subcommittee on Commerce, Consumer Protection
and Competitiveness of the
Committee on Energy and Commerce
U.S. House of Representatives

TOPIC: Municipal Solid Waste and Recycling.

AUGUST 1, 1990

Subcommittee on Procurement and Printing
of the
Committee on House Administration
U.S. House of Representatives

TOPIC: Requiring Congress to Purchase Recycled Paper and Paper Products.

SEPTEMBER 19, 1990

Subcommittee on Energy and Commerce
of
Committee on Energy and Commerce
U.S. Senate

TOPIC: "Lead Pollution Prevention Act of 1990.

SENATOR LAUTENBERG: If you so strongly support the concept of pollution prevention, why have you proposed a cut of $4 million from the FY 1991 appropriation for pollution prevention grants to states?

ANSWER: EPA requested $3 million in straight-line funding for the grants program. The Agency is exploring the possibility of reprogramming FY 1992 funds so as to fully fund the program at the authorized level. The Agency is firmly committed to pollution prevention and is looking for ways to build pollution prevention criteria into the single media grant programs the Agency administers. The total funding for these programs is approximately $500 million in the FY 1992 request. The grants flexibility workgroup is currently seeking ways to use media-specific grant programs to achieve pollution prevention goals.

SENATOR LAUTENBERG: Why do you need $3 million for pollution prevention grants to states?

ANSWER: With EPA's increased emphasis on multi-media pollution prevention, State-based programs that address the reduction or elimination of pollution across all environmental media need to be established. The $3 million in grant funds currently provides States with the necessary resources to develop and implement prevention programs. Using the grant funds, EPA is specifically seeking to build State pollution prevention capabilities or to test, at the State level, innovative pollution prevention approaches and methodologies. The grant funds will also target State efforts to address highly ranked environmental risk areas using pollution prevention approaches. Through support from EPA and enactment of state legislation, ten states have created self-sustaining pollution prevention programs at the state level.

SENATOR LAUTENBERG: Do states currently have existing capability to manage effective pollution prevention programs?

ANSWER: Both State capability and the scope of State pollution prevention programs vary dramatically. Over the past two years, at least a dozen States have enacted Pollution Prevention laws, some with significant data and planning provisions. State programs can range from technical assistance to detailed tracking of facility plans. Many States are capable of managing technical assistance programs, but capability for some of the more demanding planning provision is unknown.

CHEMICAL SAFETY BOARD

SENATOR LAUTENBERG: The President's overall FY92 budget document (Part Four-1082) proposed to spend $5 million for the Chemical Safety Board established in Title III of the 1990 Clean Air Act Amendments after the Congress passes legislation during Constitutional concerns about the legislation.

A. Why didn't the Administration ever raise these alleged constitutional problems during congressional consideration of the Clean Air Act?

B. What are the Constitutional concerns?

C. Please provide the Committee with the Administration's legal analysis of the alleged constitutional problems.

ANSWER: For many years the Executive Branch has consistently opposed the creation of agencies or subagencies which, like the Chemical Safety and Hazard Investigation Board, are not fully responsible to the President for the exercise of substantial responsibilities. Thus, for the same reasons expressed in the President's Clean Air Act Amendments signing statement this Administration has strongly opposed legislative proposals to create an independent Bureau of Environmental Statistics within the proposed Department of the Environment. Similarly, because of these concerns the Clean Air Act Amendments originally proposed by the President would have created an Air Pollutant Release Investigation Board structured as a normal Executive-Branch agency. See H.R. 3030, Section 705.

As explained below, we believe that such Entities raise extremely serious issues as a matter of constitutional law, particularly in light of the Supreme Court's recent decision in Morrison v. Olson, 108 S.Ct. 2597 (1988). In addition, we believe that they are highly undesirable as a matter of policy.

A. Removal Restrictions

The Act established the Board as an "independent safety board" closely affiliated with the Environmental Protection Agency (EPA), which is of course within the Executive Branch of the government. Section 112(r)(6)(A).[1] Although many of the authorities that this provision confers on the Board could be deemed "essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees ...." Buckley v. Valeo, 424 U.S. 1, 137 (1976), a large number of its functions must be characterized as the "exercis[e] [of] significant authority pursuant to the laws of the United States." Id. at 126 (1976). These include the ability to adopt regulations "binding on persons" for the report of accidental hazardous substance releases, section 112(r)(6)(C)(iii). After the Board promulgates such "binding" reporting regulations, "[i]t shall be unlawful for any person to fail to report any release ... as required by [them]," and the Administrator is authorized to enforce such regulations and requirements.

In addition, the Administrator and the Secretary of Labor are required to respond "formally and in writing" to recommendations that the Board submits to them, giving reasons for any departure form the Board's recommendations. Sections 112(r)(6)(H), (I), (J). the Board may also "use any information gathering authority of the Administrator under [the Clean Air] Act." Section 112(r)(6)(M). Any request for information from a stationary source made by the Board or the Administrator under this section of the Act is to be treated for purposes of all the Act's enforcement provisions as a request made by the Administrator under section 114 of the Act, and may be enforced by either the Chairman of the Board or the Administrator as provided in that section. Section 112(r)(6)(O), 113(b)(2), 113(d)(1)(B), 114.

The Board is further authorized to establish both procedural and administrative rules necessary to exercise its functions, section 112(r)(6)(N). The Administrator is obliged to provide to the Board "such support and facilities as may be necessary for [its] operation ...." Section 112(r)(6)(P). In addition, the Board is authorized to enter into contracts, leases, cooperative agreements, and other transactions necessary to its functions. Section 112(4)(6)(N). The Board is empowered to make determinations to withhold access to otherwise available materials from the public under specified conditions. Section 112(4)(6)(Q). It may also conduct research. Section 112(4)(6)(F).

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[1] Unless otherwise noted, references herein will be to the provisions of the Clean Air Act as revised by the Amendments, rather than to provisions of the Act itself.

Despite giving the Board these attributes of executive authority, the Act provides that Board members may only be removed by the President for "inefficiency, neglect of duty, or malfeasance in office." Section 112(r)(6)(B). As you know, the Supreme Court approved certain limitations on the President's removal power over independent prosecutors in Morrison v. Olson, 108 S. Ct. 2596 (1988). The Court's reasoning in that case, however, severely undercuts any argument for the validity of the Board. First, the Court emphasized that the independent counsel, unlike the Board, lacked policymaking or significant administrative authority. Id. at 2619. Unlike the independent counsel, who is required generally to follow the prosecutorial guidelines established by the Department of Justice, see 28 U.S.C. § 594(f), the Board exercises its important regulatory, contracting, investigatory, and enforcement powers without any comparable statutory obligation to adhere to otherwise applicable EPA or federal policies. [2] Second, while the independent counsel is the incumbent of a temporary office and enjoys only limited tenure, id., Board members would be appointed for five years, a term longer than the President's and the Board itself would have unlimited duration. Third, while the independent counsel has a narrow jurisdiction centering on specific cases, the Board has a broad, general subject-matter jurisdiction. Sections 112(r)(6)(B), (C). Fourth, the Court noted that the independent prosecutor was only an "inferior officer" for Appointments Clause purposes. Morrison, 108 S. Ct. at 2619. By contrast, the Board chairperson, who "shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board," section 112(r)(6)(B), would appear to be a principal officer of the United states for purposes of the Appointments Clause. similarly, with respect to the Board's non-executive and non-administrative functions, both the Chairman and other members of the Board appear to function as principal officers. This argument is reinforced by the fact that the members of the Board are to be appointed by the President with the advice and consent of the Senate, in the manner specified by the constitution for principal officers of the United States. Section 112(r)6)(B). Finally, the perceived conflict of interest between the President's duty to enforce the laws and his putative concern to protect his closest advisors that gave rise to the independent counsel statute does not obtain in the context of this statutory provision: there is no conflict between the President's duty to enforce the laws and the responsibilities devolved on the Board. In short, we believe that the court's analysis in Morrison raises exceptionally serious questions regarding the constitutionality of the proposed restrictions on the President's removal power. Accordingly, although, as the Presidential signing statement noted, we believe that these removal provisions are severable, enactment of quite simple and limited curative legislation would place the issue beyond dispute and ensure that the important responsibilities of the Board were not compromised or delayed by litigation.

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[2] This legal defect is also gravely objectionable as a matter of policy. Despite largely precatory statutory mandates to coordinate activities with other federal agencies, see sections 112(r)(6)(D), (E), (F), the overlapping jurisdiction and powers of the Board virtually ensure inconsistent or duplicative enforcement, investigatory, contracting and research activities.

B. Concurrent Reporting Requirements

The Act also purports to impose further restrictions on the president's authority to supervise the Board independent of the removal restrictions discussed above. although the Board is part of the Executive Branch and will exercise significant authority under the laws of the United States, section 112(r)(6)(R) purports to require the Board,

> whenever [it] submits or transmits any budget estimate, budget request, supplemental budget request, or other budget information, legislative recommendation, prepared testimony for congressional hearings, recommendation or study to the President, the Secretary of Labor, the Administrator, or the Director of the Office of Management and Budget ... concurrently [to] transmit a copy thereof to the Congress.

Further, the provision purports to deprive any officer or agency of the United States of authority to require the Board to submit its budget requests or estimates, legislative recommendation, prepared testimony, comments, recommendations or reports to any officer or agency of the United States for approval or review prior to the submission of such recommendations, testimony, comments or reports to the Congress.

It would further provide that

> [i]n the performance of their functions as established by this Act, the members, officers and employees of the Board shall not be responsible to or subject to supervision or direction, in carrying out any duties under this subsection, of any officer or employee or agent of the Environmental Protection Agency, the Department of Labor, or any other agency of the United STates except that the President may remove any member of the Board for inefficiency, neglect or duty or malfeasance in office.

Section 112(r)(6)(S) further provides that the Board must submit an annual report "to the President and to Congress" including, inter alia, information on accidental releases during the previous year and the board's past recommendations for legislative or administrative action to the Administrator, the Secretary, or the heads of other federal agencies and their implementation thereof.

These provisions also raise extremely serious constitutional questions and, though severable, should be deleted from the act in their entirety to avoid jeopardizing the important responsibilities of the Board. It has been the longstanding view of the Executive Branch that congress may not consistent with the constitution require Executive Branch officials to submit reports and proposal to Congress without prior review by their superiors in the Executive Branch. See, e.g., 6 Op.O.L.C. 632, 640 (1982); 1 Op.O.L.C. 16, 17-18 (1977) (concurrent reporting requirements offends President's art. II power to direct). See also, Myers v. United States, 272

U.S. 52, 163-64 (1926); Congress Construction Corp. v. United States, 314 F.2d 527, 530-32 (Ct. Cl. 1963). Congress *a fortiori* may not directly deprive the President and his delegates of the authority to supervise his subordinates. *See id*.

C. Integrity of the Deliberative Process

Section 112(r)(6)(H), (I), and (J) of the ct contain provisions requiring the Board to publish recommendations to which the Administrator or the Secretary would be required to respond "formally and in writing." Section 112(r)(6)(S) requires the Board to submit an annual report to the President and congress including, *inter alia*, recommendations for legislative and administrative action made by the Board and any action taken to implement such recommendations by EPA or other federal agencies.

Section 122(r)(6)(H), (I), and (J) could be read to permit or require the Board to publish its recommendations to EPA and other federal agencies and their "formal and ... writ[ten]" responses thereto; in any case, section 112(r)(6)(S) requires the Board annually to provide congress with such recommendations and the agencies' responses thereto. Both these provision impermissibly impair the integrity of the Executive Branch's deliberations by requiring the publication of interagency consultations. They would thereby run counter to the President's authority as head of the unitary Executive Branch to "take Care that the Laws be faithfully executed," U.S. Const. art. II, sec. 3, and to coordinate and supervise his subordinates. In addition, such mandatory procedures inevitably reduce the quality of the advice tendered to federal decisionmakers, to the serious detriment of the public interest. As the Supreme Court has noted,

> [T]he importance of this confidentiality is too plain to require further discussion. Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process.

United States v. Nixon, 418 U.S. 683, 705 (1974) (footnote omitted). Because the provisions noted above compromise what the Supreme Court has termed "the necessity for protection of the public interest in candid, objective, and even blunt or harsh opinion" in Executive Branch decision making, *id*. at 708, they should be modified or deleted to ensure that decisionmaking in this critical area is informed by advice and information of the highest calibre and to permit the Board's work to proceed without any question, hindrance, or delay of its activities.

CAA - ACCIDENTAL RELEASE REDUCTIONS

SENATOR LAUTENBERG: Why has EPA proposed to decrease funding for its Clean Air Act Accidental release program (p.5-49) in FY 92?

ANSWER: The Clean Air Act Amendments of 1990 contained new provisions for preventing accidental releases. FY 1992 is the first year the Agency is requesting resources for implementing this program. With these resources EPA will begin the regulatory development process for meeting statutory deadlines of the Clean Air Act's accidental release provisions. In 1992, the program will focus on the following objectives:

1) Developing a list of hazardous chemicals, with reporting thresholds, that upon accidental release seriously affect the general public and the environment.

2) Developing regulations addressing requirements for owners and operators of facilities to develop risk management plans, coordinating Agency activities with OSHA, developing guidance and evaluating regulatory impact. The program will also develop procedures for registration, audit and review of plans.

3) Providing support and establishing liaison with the Chemical Safety and Hazard Investigation Board after it has been established. EPA will begin formulating procedures and processes for assisting Board startup and coordinating and assisting the Board in investigating accidents. These actions assume enactment of curative legislation that the Administration will draft to address constitutional concerns raised by the 1990 CAA amendment's provision related to the Board.

4) Conducting a hydrofluoric acid study and develop required regulations either for converting to an alternative, or for preventing accidental releases.

5) Developing the expertise of States and local entities who will be required to receive and review information from regulated facilities.

INDOOR AIR EFFORTS

SENATOR LAUTENBERG: In 1989, the Administration released a report on needed indoor air efforts. How will the FY 1992 budget request for indoor air meet the objectives in the 1989 report?

ANSWER: Resources will be devoted to pursuing all the recommendations in the 1989 Report including:

- $500,000 for the development of an indoor air quality emissions inventory;
- $2,000,000 for a large building indoor air quality characterization study;
- $2,200,000 for source assessment and mitigation research;
- $500,000 for biocontaminant research;
- $400,000 for the operation of a National Indoor Air Quality Clearinghouse;
- Providing each Regional Office with a full time staff person in each Region to work exclusively on coordinating indoor air quality education, outreach and problem-solving; and
- $1,000,000 to develop and provide indoor air quality training courses to state and local personnel; building owners and managers; school facility operations; and other selected audiences throughout the country.

SENATOR LAUTENBERG: What actions suggested in the 1989 report won't be undertaken by EPA?

ANSWER: The FY 1992 budget request will permit the Office of Air and Radiation to undertake meaningful activities in support of all of the recommendation areas pertaining to program and policy development, and the Office of Research and Development will be able to expand its research on a number of indoor air quality topics proposed in the 1989 Report, including expanded research on the extent of indoor air problems in public and commercial buildings of source characterization and mitigation, and biocontaminants.

INDOOR AIR EFFORTS

SENATOR LAUTENBERG: Is EPA proposing an increase in indoor air research funding for FY 1992?

ANSWER: Yes. EPA has requested $6.8 million in FY 1992 to fund expanded indoor air research, an increase over FY 1991 levels of $2.5 million.

BUDGET FOR INDOOR AIR AND RADON EFFORTS

SENATOR LAUTENBERG: Please indicate the amount of funding for indoor air and radon efforts requested by EPA as well as the amount approved by OMB? If the EPA request exceeded the amount in the President's budget, please indicate specifically what activities would have likely been accomplished through the EPA request which are not likely to be accomplished due to the OMB reduction.

ANSWER: EPA requested $6.3 million and 28.5 workyears for Indoor Air Division activities and the President's request was $5.5 million with 23.5 workyears. It is anticipated that all of the activities for which funding was requested will be funded at a reduced level to reflect this reduction.

EPA requested 95.2 workyears and $20.9 million in extramural funds. OMB approved 91.2 workyears and $19.4 million in extramural funds.

The difference in resources would have allowed EPA to: do additional work to promote the adoption of the model building codes for radon resistant new construction; expand various public education and information programs; and increase funding to states to support state level radon programs.

The increase in resources over the previous year will allow the Agency to expand regional training activities and promote the adoption of radon building codes at the state and local level. The additional funding will also permit increased public information and educational activities.

WATER POLLUTION FUNDING

SENATOR LAUTENBERG: Do you have an analysis which shows that state revolving loan funds will be adequately capitalized under the Administration's sewage treatment budget proposal? If so, please provide the committee with that analysis.

ANSWER: Capitalization of State revolving loan funds (SRF) is addressed in two SRF Reports to Congress, which are nearing completion. The Interim report will be sent to the Committee within a few weeks. The final report covering 46 States is scheduled for transmittal to Congress in the spring.

SENATOR LAUTENBERG: Did EPA in its request to OMB recommend sewage treatment grant funds for the projects listed in the EPA budget?

ANSWER: EPA requested grants funds for two projects: $40 million for Boston Harbor and $50 million for Tijuana. However, through our deliberations we came to agree with the need to complete Tijuana as soon as possible to protect public health and the National Wildlife Refuge, and to increase funds for Boston which complements the Coastal America Initiative.

SENATOR LAUTENBERG: What analysis do you have to show that these 5 projects are the most important sewage treatment projects in the nation?

ANSWER: Based on the 1988 needs survey, these five cities have the largest current secondary treatment needs in the nation.

SENATOR LAUTENBERG: Does EPA believe that states will have adequate resources to manage their responsibilities under the various Federal water pollution control requirements? If not, what shortfall in funding do you think states will have.

ANSWER: Yes, states can generally meet their responsibilities. Any small shortfalls could be made up through existing financial mechanisms or others which are reasonably available to the states. They could also impose user fees to support teh NPDES program in delegated states, as EPA is going to do in non-delegated states.

SENATOR LAUTENBERG: If nonpoint source pollution represents such a significant portion of the nation's water pollution problems, why is the Administration proposing to cut funding for the nonpoint source grant program to states?

ANSWER: Recognizing the serious risks posed by NPS pollution, the Administration for the first time requested funds for the Section 319 NPS program grants to States in the President's FY 1991 Budget.

The Agency's FY 1992 Section 319 grants request (which is a $10 million increase over our FY 1991 request) must be viewed in the context of the FY 1990 and 1991 appropriations already providing $89.5 million for Section 319. It must be recognized that NPS is fundamentally a local problem which is most amenable to local solutions. Since much of the nation's non-point source pollution is from agriculture, the 1990 Farm Bill authorized, and the President requested substantial sums to implement conservation plans, the Conservation Reserve Program, and other cost-sharing programs to reduce NPS pollution. The Soil Conservation Service and Extension Service are putting greater emphasis on providing technical assistance to control NPS pollution. The Federal role is to enable States and local governments to devise and implement appropriate solutions to NPS pollution, a role which is adequately supported by the Agency's FY 1992 request. Given the emerging nature of NPS programs in many States and the need to assure that NPS monies receive adequate EPA and State oversight, we believe our FY 1992 request is prudent and will result in measurable progress in reducing NPS risks.

SENATOR LAUTENBERG: What level of funding for nonpoint source pollution grants to States did EPA request from OMB?

ANSWER: 1992 is the second consecutive year EPA will request funds for nonpoint source (NPS) grants. EPA requests $25 million for this program. This is a decrease of $26 million reflecting the large Congressional appropriation in 1991.

This Administration continues to recognize the need for federal support of the initial efforts by States to implement NPS. While controlling NPS pollution is a State and local responsibility, EPA will target funding toward those programs that demonstrate the ability and willingness to implement the best management practices for controlling the most serious NPS pollution.

For example, we will encourage State NPS programs that:

- protect and restore critical aquatic habitats.
- establish linkages with State agricultural agencies and USDA Water Quality Initiative demonstration projects.
- develop effective pollution prevention programs to minimize generation of NPS pollution at the source.
- establish public education programs that encourage awareness and modification of day-to-day activities which generate NPS pollution.

SENATOR LAUTENBERG: Please indicate for each year since the inception of the Construction Grants program, the total amount requested by the President, the total amount appropriated, and the total amount authorized.

ANSWER: See the attached tables. The President's Budget requests from FY 1957 through FY 1977 are not available.

CONSTRUCTION GRANTS FUNDING
DOLLARS IN MILLIONS
FY 1957 - FY 1967

	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967
AUTHORIZATION GRANTS	50	50	50	50	50	80	90	100	100	150	150
PRESIDENT'S REQUEST GRANTS											
APPROPRIATIONS GRANTS	50	*45	*47	*46	*46	80	90	90	90	121	150

* Included supplemental appropriations of $657,000 in 1958, $1,816,000 in 1959, $1,101,000 in 1960, and $645,260 in 1961.

CONSTRUCTION GRANTS FUNDING
DOLLARS IN MILLIONS
FY 1968 - FY 1977

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
AUTHORIZATION GRANTS	450	700	1000	1250	2000	**5000	**6000	**7000	no auth.	1000
PRESIDENT'S REQUEST GRANTS										
APPROPRIATIONS GRANTS	203	214	800	1000	2000	***2000	***3000	***4000	9000	1416

** Contract Authority (method of funding changed from authorized appropriation to contract authority by 1972 Act.)

*** Amount of contract authority released by Presidential action.

CONSTRUCTION GRANTS FUNDING
DOLLARS IN MILLIONS
FY 1978 - FY 1985

	1978	1979	1980	1981	1982	1983	1984	1985
AUTHORIZATION								
GRANTS	4500	5000	5000	5000	2400	2400	2400	2400
SRF								
PRESIDENT'S REQUEST								
GRANTS	4500	4500	3800	2500	2400	2400	2400	2400
SRF								
APPROPRIATION	4500	4200	*2520	*2550	2400	2430	2435	2400
GRANTS								
SRF								

*$3,400M was appropriated in 1980 but $880M was rescinded.
$3,300M was appropriated in 1981 but $756M was rescinded.

CONSTRUCTION GRANTS FUNDING
DOLLARS IN MILLIONS
FY 1986 - 1992

	1986	1987	1988	1989	1990	1991	1992
AUTHORIZATION				2400	2400	2400	1800
GRANTS	2400	2400	2400	1200	1200	0	0
SRF				1200	1200	2400	1800
PRESIDENT'S REQUEST				1500	1200	1600	1900
GRANTS	2400	1800	2000	750	400	0	400
SRF				750	800	1600	1500
APPROPRIATION	1774	2361	2304	1950	1991.7	2100.0	-
GRANTS			1958	941	973.5	0	-
SRF			346	941	973.5	2047.8	-
SPECIAL PROJECTS				68	44.7	52.2	-

ASBESTOS IN SCHOOLS PROGRAM

SENATOR LAUTENBERG: Does EPA have an estimate about the cost to correct the remaining threats posed by asbestos in schools?

ANSWER: No national survey has been conducted which will provide a direct answer to this question. However, EPA can make a limited projection based on the few years of experience with the implementation of the Asbestos School Hazard Abatement Act (ASHAA). While the 1989 and 1990 applicant pool, requested costs for projects totaled $368 and $403 million respectively, the 1991 applicant pool requested approximately $170 million for over 1,200 projects.

This decrease is attributable to a number of factors: 1) In 1987, EPA promulgated the Asbestos Hazard Emergency Response Act (AHERA) which required schools to identify friable and nonfriable asbestos in their buildings and to develop management plans for dealing with asbestos in schools. Most schools completed this task in July, 1989; and, 2) the Agency in July, 1990 has published a guidance document which details ways of managing asbestos in place. In addition, on March 6, 1991 Administrator Reilly signed an advisory to the public to facilitate better understanding about asbestos and to promote appropriate asbestos response action in buildings.

SENATOR LAUTENBERG: Do significant asbestos threats in schools still remain?

ANSWER: As the schools learn how to better manage asbestos in place, the need for abatement will decrease. On the other hand, nonfriable materials can and will become friable over time increasing the demand for abatement action. Although the ASHAA program has gone a long way in addressing the asbestos problem with the Federal financing of the neediest schools, problems with asbestos will continue to be a concern as older buildings deteriorate.

SENATOR LAUTENBERG: Do you have any analysis to show that remaining problems would only go to schools that are capable financially of addressing an asbestos problem?

ANSWER: By the end of 1991, EPA will have awarded over $290 million through loans and grants to alleviate the asbestos threat in over 1,000 financially neediest schools. While no hard data exist, EPA estimates that compliance with the Asbestos Hazard Emergency Response Act (AHERA), which includes elimination of the most serious asbestos hazards, continues to impose a financial burden on many school districts. The Agency, however, believes decisions on the management of asbestos, including the funding of abatement programs, are most appropriately handled at the State and local level where compliance with regulations requires appropriate local actions. Thirty-two states have enacted more than 60 asbestos-related laws and nearly half of the states have financing provisions in the laws.

MUNICIPAL SOLID WASTE

SENATOR LAUTENBERG: EPA has reported that the nation's landfill capacity is shrinking. Is the EPA proposing any increased funding in FY 1992 to help address our solid waste capacity crisis? If not, why not?

ANSWER: The Agency's request for funding of municipal solid waste activities remains unchanged in FY 1992 from FY 1991. EPA's efforts in this area have principally focused on seeking solutions to the nation's landfill capacity problems. The President's Budget requested level of funding will allow the Agency to devote significant attention to capacity issues through the concept of integrated waste management. This includes providing assistance to state and local governments on source reduction and recycling to reduce the quantity of waste requiring disposal; implementing Federal procurement guidelines to provide markets for materials recovered from the waste stream; providing information on techniques to improve the safety of landfilling and incineration; and publication of a guide to assist small communities in the siting of new disposal facilities.

ENVIRONMENTAL LABELING

SENATOR LAUTENBERG: Bill Reilly has announced an EPA effort to establish definitions for environmental marketing claims. How much money does EPA plan to spend on this effort in FY 1992?

ANSWER: EPA, together with the U.S. Office of Consumer Affairs, asked the Federal Trade Commission (FTC) to participate in a joint federal task force to develop and promote national guidelines for the use of some environmental terms, such as "recycled" and "recyclable" and to explore the appropriate ways to address other more general environmental claims. As a consequence, the three agencies have recently formed the task force and will be working cooperatively towards reducing consumer confusion in the marketplace of environmental claims and provide federal leadership and cooperation in addressing the issue of environmental claims.

As part of this effort, EPA is developing voluntary guidelines or definitions for the terms "recycled' and "recyclable." We will be distributing draft guidelines for these terms early summer and plan to finalize them by the end of the calendar year. We are also beginning to develop guidelines or definitions for many of the other commonly used environmental claims such as "biodegradable" and "environmentally friendly."

Funding for the labeling initiative has not been broken out from the broader recycling budget. We expect that the ongoing discussions with FTC will determine the exact level of resources the agencies will devote to this effort for FY 1992. Funds will be made available for this effort from within existing resources.

SENATOR LAUTENBERG: Are you proposing any increased funding in FY 1992 for this effort?

ANSWER: As stated above, our discussions with FTC will determine the level of resources devoted to the labeling effort in FY 1992.

SENATOR LAUTENBERG: What are your plans for developing these definitions?

ANSWER: Working with the interagency task force, the states, and the public at large, we plan to propose voluntary guidelines or definitions during this summer for the terms "recycled" and "recyclable." After receiving comments, hopefully in public hearings sponsored by the task force, we will consider all comments and revise them the voluntary definitions or guidelines as necessary. We will publish final guidelines or definitions in late 1992. For general terms such as "environmentally friendly" we plan to propose guidelines or definitions during 1991.

SENATOR LAUTENBERG: Do you believe EPA should have the lead role in developing definitions for environmental marketing claims?

ANSWER: Because federal policy on environmental marketing claims necessarily includes considerations of environmental and advertising policy, we believe that EPA, with its environmental expertise, the Federal Trade Commission, with its advertising expertise, and the U.S. Office of Consumer Affairs, with its consumer expertise, should jointly be leaders in establishing federal policy in this area.

SENATOR LAUTENBERG: Do you believe there is a need for product as well as packaging standards?

ANSWER: Manufacturers are making environmental claims not only about their products, but also about the packaging of their products. Consequently, any guidelines or definitions that EPA proposes must cover claims about products as well as packaging.

SENATOR LAUTENBERG: Do you plan to develop specific definitions for claims or merely provide general guidance for the use of claims?

ANSWER: The decision to develop general guidelines or more specific definitions will be made individually for each term or set of terms. For example, vague or general claims such as "environmentally friendly" can best be addressed by guidance at this time. For "recycled" EPA is currently considering options that include both general guidance and very specific definitions. One thing that is not yet clear is which approach would better promote recycling. For example, does more recycling occur if the manufacturer lists the amount of recycled content on the label, or if there is a minimum amount of recycled content required before the manufacturer could make such a claim? One of the issues EPA will discuss with FTC is the complex interaction of technology, the marketplace, and consumer forces in this area.

SENATOR LAUTENBERG: What evidence does the EPA have concerning how extensively marketing claims are being made regarding consumer products and packages and is the EPA seeing an increased use of such claims?

ANSWER: According to Marketing Intelligence Service Ltd., a company that gathers and analyzes new product information, "environmentally friendly" products are being introduced at a rate of 20 to 30 times greater than that of other new packaged goods (The Marketer, April 1990); and "green" products constituted 4.5 percent of all new product introductions in 1989 and 9.2 percent in the first half of 1990. (The Green Report, November 1990). As a point of reference, "green" products made up only 0.5 percent of all new products in 1985. Our anecdotal information, based on conferences, the press, and information we receive from the public, confirms this increase in the use of environmental claims.

SENATOR LAUTENBERG: Would the EPA consider the impact that a product or package would have on the environment in setting a guideline or would the EPA solely consider whether the claim is deceptive?

ANSWER: We are very concerned about deceptive uses of environmental claims because it is clear that minimizing deceptive advertising can help improve environmental quality. This is one reason we were so interested in establishing a task force with the Federal Trade Commission, whose expertise is in the area of deceptive advertising. However, our concern is environmental quality.

We believe that the appropriate use of environmental claims, that is, consumers requesting products that are less harmful to the environment, and manufacturers increasing their production of such products, can improve environmental quality. Thus any guidelines or definition that EPA might propose would include the consideration of environmental factors as well as minimizing the potential for deception.

SENATOR LAUTENBERG: Do you believe that standards for claims should be the type of vague guidelines suggested in the recent petition by the National Food Processors Association to the FTC or should standards be specific, substantive, and supportable as requested by the 10 state Task Force of State Attorneys General on Green Marketing?

ANSWER: Our objective in this area is to maximize the benefits to the environment, not only in the short run but also well into the future. Thus we will be closely analyzing the approaches that the National Food Processors Association and the State Attorneys General are recommending. Others, like the State of California which has passed state legislation regulating environmental claims, and the Northeast Recycling Coalition which has recommended guidelines for some environmental claims, have still different approaches for addressing environmental claims.

Considerations in reaching our objective will include the potential for deception, perceptions that consumers have of different claims, minimizing interference in the marketplace, and encouraging product innovation to improve environmental quality. We are taking an objective look at all of these approaches to see which ones best meet the Nation's environmental objectives.

COASTAL DEPOSITION

SENATOR LAUTENBURG: What is the status of the study requested by Senator Lautenberg in the Senate report accompanying the FY 1990 Appropriations bill concerning atmospheric deposition in coastal waters?

ANSWER: The report to Congress entitled "Plan to Research Atmospheric Deposition in Coastal Waters" was reviewed twice by OMB last year. OMB final comments were submitted to EPA on March 7, 1991. EPA's Office of Research and Development (ORD) will have a revised report completed for final OMB approval this spring.

SUPERFUND REMEDIATION

SENATOR LAUTENBERG: Will the Administration's Superfund budget result in sufficient funding to commence all of the remedial action projects that are ready to be funded through FY 92? If not, please indicate what increase above the President's budget request would be necessary to fund all the remedial action projects ready to be funded in FY 92 (including projects not expected to be funded in FY 91)?

ANSWER: The FY 92 President's Budget directs $585 million for fund financed remedial action projects. This amount and the corresponding support activities were based on a methodology that identified sites ready for design in FY 90 or FY 91 and, therefore, expected to enter construction during FY 92. The methodology takes into consideration the Agency's extensive enforcement efforts aimed toward having potentially responsible parties finance these activities. In a more recent review of this methodology, we continue to believe the $535 million (and support funds) will be sufficient to begin those projects meeting the requirements for funding through FY 92. Our methodology does not include two areas which funding has been reserved: ongoing/phased funding, and quick action projects. Approximately $100 to $150 million in the remedial action budget has been set aside to cover ongoing (long-term response) and phased funding for larger dollar projects. On the other hand, several small and quick action projects (less than $1 million) which cannot be identified may receive funding during the fiscal year.

SENATOR LAUTENBERG: Please indicate how many sites (including sites not expected to be funded in FY 91) will be ready for remedial action funding in FY 92 but will not receive funding if Congress appropriates the full amount requested by the Administration.

ANSWER: If the Agency receives its full Superfund and Remedial Action (RA) request for FY 1992, the Agency should be able to fund all projected RA starts in FY 1992.

SENATOR LAUTENBERG: Please indicate all the specific sites by state that will be ready for remedial action funding in FY 91 and FY 92. Please indicate, if available, which such sites are likely to be funded if the President's budget request is fully appropriated, and which such sites are less likely to be funded?

ANSWER: We believe 38 projects will be ready for remedial action funding in FY 92. The President's budget level will allow all of these projects to receive funding in FY 92. The following sites (identified by state) are expected to be ready and receive funding in FY 91 and FY 92.

FY 1991

Region	State	Site Name
1	MA	New Bedford Harbor
2	NJ	Higgins Farms
	NJ	Waldick Aerospace
	NJ	Metaltec
	NJ	D'Imperio
	NY	Mattiace Chemical
	NY	Marathon Battery
	NY	American Thermostat
	NY	Love Canal
3	PA	Welsh Landfill
	PA	Butz Landfill
	PA	C&R Battery
	PA	Douglasville
	PA	Drake Chemical
	VA	Avtex Fibers
4	FL	American Creosote
5	IL	SE Rockford
	IL	Bryon Salvage
	MI	U.S. Aviex

Region	State	Site Name
	MI	Ott-Story
	MI	Forest Waste
	MN	Long Prairie
6	LA	Bayou Bonfouca
	TX	Sol Lynn Industries
	TX	North Cavalcade
7	KS	Arkansas City Dumb
8	CO	Smuggler Mountain
9	CA	San Gabriel

FY 1992

Region	State	Site Name
1	NH	Ottatti & Goss
2	NJ	Lang
	NJ	DeReival
	NJ	Vineland Chemical
	NJ	Lipari
	NY	Kentucky Avenue
	NY	Vestal Water Supply
	NY	SMS Instruments
	NY	Sarney Farm
	NY	American Thermostat
	NY	C&J Disposal
	NY	Haviland Complex
	NY	Preferred Plating
3	DE	Delaware Sand
	MD	Southern Maryland Wood
	PA	Douglasville
	PA	MW Manufacturing
	PA	Cryo-Chem
4	FL	Coleman Evans
	NC	Cape Fear
	NC	By-Pass 601
5	IN	Tri-State Plating
	MI	Forest Waste
	MI	Ott/Story
	MI	Oconowomoc
	MN	St. Louis River
6	TX	North Cavalcade
	TX	United Creosoting
7	KS	Cherokee County
	NE	Hastings Groundwater
	MO	Kern-Pest
8	CO	Sand Creek
9	CA	Atlas Asbestos
	CA	Selma Treating
	CA	Purity Oil
10	WA	Frontier Hard Chrome
	WA	Northwest Transformer

SENATOR LAUTENBERG: Please indicate how many sites (including sites not expected to be funded in FY 91) will be ready for remedial action funding in FY 92 but would not receive funding if Congress were only to appropriate the same amounts as appropriated in FY 91. Please also indicate which sites would be likely to be funded if Congress appropriated the same amount as last year, and which sites are less likely to be funded?

ANSWER: We estimated 38 projects will be ready for remedial action funding in FY 1992 and the $585 million requested will be sufficient to fund those projects. If Congress appropriates the same amount as FY 1991, and assuming the Agency's internal decisions are consistent, some of the projects expected to receive funding during the last month or two may be delayed until the beginning of the next fiscal year - FY 93. In FY 91, the RA account was reduced by $99.3 million after the $163 million Congressional reduction to Superfund. The average cost for a remedial action is $14.4 million. Therefore, the reduction of $99.3 million would delay approximately 7 remedial action starts. However, there are a number of factors that can affect this estimate. Few of our projects actually equate to the average cost for a remedial action and the costs vary according to the size and complexity of a site. Furthermore, a strong enforcement program can increase the number of responsible party takeovers at sites and thus reduce the number of remedial actions actually requiring funding in any given fiscal year. Also, an Agency decision to spread Superfund reductions among various Superfund activities can reduce the significant impact of a reduction on remedial actions.

SUPERFUND REMEDIATION

SENATOR LAUTENBERG: Please indicate the relationship between a possible appropriation level below the President's budget request for FY 92 and the number of sites at which cleanup construction would not be able to be commenced (i.e., for every $X Congress appropriates below the President's request, 1 cleanup construction project ready to be funded in FY 92 will not be able to be commenced). Please provide the same information, if possible, for RI/FSs, Remedial Designs, removals, and pre-remedial activities (PA and SI, HRS scoring).

ANSWER: There is no simple formula that can be applied to a proposed budget cut to automatically estimate the number and mix of individual activities that will be deferred. It takes approximately 4 years to move a site from discovery onto the National Priorities List. It takes another 5 or more years for an operable unit to move through the remedial process. For these reasons, the mix of event deferrals would vary depending on the size of the budget reduction and the type of work needed to minimize adverse public health and environmental impacts.

SENATOR LAUTENBERG: What is the current estimate of the average cost of each of the following: an RI/FS, a Remedial Design, a remedial action, and Preliminary Assessment, a Site Inspection, HRS scoring and listing process for a site.

ANSWER: For the purposes of measuring the mean cost per site, an average of 1.8 operable units is used to calculate the costs for the remedial investigation/feasibility study, the remedial design and treatability study and the remedial action. The cost of pre-remedial actions (Preliminary Assessment, Site Investigation, Listing Inspection, and NPL Listing) are attributed to the overall site, not to an individual operable unit. Extramural cost factors being used at the end of FY 1989, and included in the FY 1989 annual report, were:

Preliminary Assessment	$6,000
Site Inspection	$25,000
Listing Inspection	$75,000
NPL Listing	$88,000
Remedial Investigation/ Feasibility Study	$1,350,000
Remedial Design & Treatability Study	$1,530,000
Remedial Action	$25,920,000
TOTAL SITE COST*	$28,800,000

* This figure is calculated using a factor of 1.8 operable units per site.

SENATOR LAUTENBERG: What is the current estimate of the average cost of an operable unit?

ANSWER: Extramural cost assumptions for the direct site work at a Fund lead operable unit include:

RI/FS	$750,000
Remedial Design & TreatabilityStudy	$850,000
Remedial Action	$14,400,000
TOTAL OPERABLE UNIT COST	$16,000,000

The cost of pre-remedial actions (Preliminary Assessment, Site Investigation, Listing Inspection, and NPL Listing) are attributed to the overall site, not to an individual operable unit. In addition, enforcement costs and general program costs are not factored into these cost estimates.

SENATOR LAUTENBERG: What is the current estimate of the average total cost (including all operable units) of completing cleanup at an NPL site.

ANSWER: The average cleanup costs for a Fund lead site is $28.8 million (1.8 operable units per site times $16 million). A frequent mistake is to misconstrue this as the average total cost (as opposed to cleanup cost) of a site.

SENATOR LAUTENBERG: If Congress appropriates the President's request for Superfund, does EPA project that it will be able to obligate all such funds, without having a carryover at the end of FY 1992?

ANSWER: The EPA expects to obligate all of the President's FY 1992 request for Superfund and does not anticipate having any carryover at the end of FY 1992.

SENATOR LAUTENBERG: Please indicate, beginning with FY 1987, what size carryover existed at the end of each fiscal year for

Superfund. For each such year where a carryover existed at the end of the fiscal year, please indicate why such a carryover existed.

ANSWER: Carryover included in the FY 1987, FY 1988, FY 1989 and FY 1990 Superfund budgets was $96 million, $378 million, $154 million, $48 million, and $132 million, respectively. Superfund carryover is not projected for FY 1991 and FY 1992 since the Agency expects to fully utilize all the resources made available in both fiscal years, respectively.

Carryover occurs due to a number of different circumstances. Sometimes it is planned, for example in 1988. However, usually it is the result of contract delays and changes in site selection and remediation schedules.

SUPERFUND CLEANUP SCHEDULES

SENATOR LAUTENBERG: What is the status of implementation of all cleanup schedule targets in SARA section 116? If any of the schedules still have not been complied with, please indicate the shortfall in compliance and the reason for noncompliance, indicating if lack of funds has accounted for any such noncompliance. Please also indicate what percentage of all SARA deadlines have currently been met, and will be met at the end of the SARA five year authorization period. (Indicate also the raw numbers of such deadlines and of those complied with). For each deadline not complied with, or expected to be complied with, please provide an explanation.

ANSWER: The Agency met SARA Section 116(a)(1) on January 1, 1988. This section mandated that EPA complete preliminary assessments (PAs) at all facilities contained in the CERCLA Information System. The Agency is still working to meet Section 116(a)(2) which is to complete site inspections (SIs) at all pre-SARA sites contained in the CERCLA Information System. The deadline was January 1, 1989. To meet the deadline, the Agency tripled the number of SIs performed historically by the Agency. The SI workload increased from 1,200 SIs/year to 4,000 SIs/per year. The promulgation of the National Contingency Plan in March 1990 and the completion of the Hazard Ranking System in December 1990 will improve the quality of the remaining pre-SARA SIs to be completed. The Regions are still working towards meeting this goal and estimate the backlog will be eliminated by December 1991.

In the Superfund Annual Report to Congress (SARC), the Agency includes a section on progress toward meeting Superfund-related statutory requirements. The FY 89 Annual Report was the first to contain this information and we will update this data in the FY 90 Annual Report. The FY 90 SARC is due for completion in July 1991 and we will provide you with a copy of it at that time.

SUPERFUND TAX AND GENERAL REVENUES

SENATOR LAUTENBERG: Does EPA project that over the next four years, for which the Superfund tax and general revenues have been authorized, that the Agency will commence the various activities identified in section 116 at, above, or below the rate mandated by section 116 during the five years of SARA. Please indicate if any additional amount above the President's request would be necessary to assure compliance at the section 116 rates in FY 92, and subsequent fiscal years.

ANSWER: Section 116 (a)(2) requires that by January 1, 1989 EPA complete site inspections at facilities contained in CERCLIS as of SARA's date of enactment, as necessary. As of March 25, 1990, two Regions have met the statutory goal, and five Regions are near completion. All Regions are expected to complete their backlog by the end of FY 91.

Section 116 (b) requires that following completion of PAs or SIs, EPA is to complete evaluation of each facility listed in CERCLIS as of the date of enactment, as warranted. EPA's response is that following completion of PAs and SIs, EPA will take appropriate steps to mitigate the threat at facilities based on the policy of addressing worst sites first. EPA has already met the section 116 statutory mandates: to complete preliminary assessments of all facilities contained on CERCLIS as of SARA's date of enactment (section 116 (a)(1)); to start 275 RI/FSs by October 17, 1989 (Section 116 (d)(1)); and to start 175 RAs by October 17, 1989 (section 116 (e)(1)).

Section 116 (e)(2) requires EPA to start an additional 200 RAs by October 17, 1991. Since SARA was enacted in 1986, EPA has realized the importance of orienting our resources to the worst environmental problems -- those that pose the greatest risk to human health and the environment. In addition, we have proclaimed a goal to vigorously pursue viable enforcement efforts to have responsible parties bear the financial burden for clean up. During the last several months, we have identified a prolonged period of time between the Federal decision and the beginning of the remedial design in an effort to pursue intensive enforcement activities. As a result, we believe we will not meet the deadline that requires us to start construction at 200 new sites by October 1991. We do not believe an increase to the dollar levels requested in the FY 1992 President's Budget would alter our ability to meet this timeframe.

SUPERFUND SITE INSPECTIONS AND EVALUATIONS

SENATOR LAUTENBERG: Please explain why the EPA budget justification assumes a decrease in site inspections and preliminary assessments in FY 92?

1. How does the Agency reconcile such decreases with the following statement from the 1986 SARA Conference report:

"Based on information supplied by the Administrator of the Environmental Protection Agency, it is expected that the President will have added, or propose to add, between 1,600 and 2,000 sites to the National Priorities List. To the maximum extent practicable, the President should undertake CERCLIS evaluations at an annual rate to achieve this goal by 1988." SARA Conference Report page 229.

ANSWER: The EPA budget justification has identified a total of 1,575 preliminary assessments (PAs) and 1,690 site inspections (SIs) to be conducted in FY 92. In addition, we determined that 600 PAs and 600 SIs will be conducted as part of our environmental priorities initiative to focus these assessments on RCRA corrective action sites. This represents an increase of 75 PAs and 200 SIs over the number to be performed at RCRA facilities in FY 91. Overall, the Agency has increased its PAs (+70) and (+174) SIs over the FY 91 Current Estimate.

SUPERFUND SITE ADDITIONS AND EVALUATIONS

SENATOR LAUTENBERG: Has the Agency conducted evaluations at an annual rate sufficient to achieve the Administrator's expectation noted in the Conference Report? What is the projected annual rate of evaluations as well as additions to the NPL? If this rate is below the Administrator's projection reflected in the Conference Report please indicate why?

ANSWER: The total number of PAs/SIs identified in the FY 92 President's Budget is consistent with the 1986 SARA Conference Report. However, the National Priorities List (NPL) is not the final destination of these assessments; many of these early investigations result in recommendations for no further action and many require immediate removal actions be conducted. Either of these actions will affect the number of sites proposed for the NPL.

SUPERFUND SITE ADDITIONS

SENATOR LAUTENBERG: Please indicate what additional amounts, above the President's request, would be necessary to achieve the Administrator's expectations about site additions stated in the Conference report.

ANSWER: The Administrator has stated that his objective was to add, or propose to add, between 1,600 and 2,000 sites to the National Priorities List (NPL) by the year 2000. The FY 1992 President's request assumes 90 new sites will be added to the NPL during FY 1992. We do not believe an increase to the President's budget request would alter our ability to add additional sites to the NPL.

DECREASE IN FUNDING FOR 106 CIVIL ACTIONS

SENATOR LAUTENBERG: What is the rationale for the projected decrease in the budget justification for 106 Civil Actions? In responding to this question, please indicate specifically what such actions are comprised of.

ANSWER: FY 92 Unilateral Orders were not counted because including them in the count of Referrals was resulting in an over count of Referrals. The Congressional shows 86 Section 106 actions in FY 91 and 55 such actions in FY 92. The FY 91 number is a reflection of the following estimates:

Section 106 Consent Decrees	45
Section 106 Referrals	5
Subtotal	50
Unilateral Orders in Compliance	36
Congressional Total	86

The FY 92 estimates are as follows:

Section 106 Consent Decrees	50
Section 106 Referrals	5
Congressional Total	55
Estimate of UAO's not shown	38

Thus, although there appears to be a significant decrease, there is a projected increase of 5 referrals to DOJ.

(NOTE: Increasing numbers of UAOs are ultimately becoming Consent Decrees. As this happens, there is a danger of double counting actions if we had continued to count the UAOs beyond FY 91.)

EPA'S REQUEST TO OMB FOR SUPERFUND

SENATOR LAUTENBERG: What was the EPA request to OMB for Superfund by function? Please compare this by function to the President's budget request.

ANSWER: The Administration has proposed in the 1992 Budget Appendix a revised structure for the Superfund account (dollars in millions):

	Request to OMB	President's Budget
Remedial Action - Fund	$496.8	$585.2
Other Cleanup	317.3	310.8
Enforcement	217.5	225.0
Management & Support	122.7	112.0
Response Support	595.7	517.0
TOTAL	$1,750.0	$1,750.0

EPA's request to OMB by function is:

	Request to OMB	President's Budget
Research & Development	$69.9	$66.5
Enforcement	183.0	190.5
Management & Support	124.8	116.3
Response	1,372.3	1,376.7
TOTAL	$1,750.0	$1,750,.0

FUNDING REQUESTED FOR ATSDR

SENATOR LAUTENBERG: What was ATSDR's request to OMB for its programs? Please compare this to the President's request for ATSDR. Also please indicate modifications, if any, that EPA made to ATSDR's request prior to OMB's review.

ANSWER: The Agency's FY 92 request to OMB for the ATSDR was $44,500,000. The FY 92 President's Budget for ATSDR is also $44,500,000. Prior to making final FY 92 budget decisions within the Agency, the ATSDR requested EPA support a FY 92 budget level of $64,000,000.

SUPERFUND USE OF GENERAL REVENUE

SENATOR LAUTENBERG: Why doesn't the President's Superfund request use any of the authorized general revenues? Can the full amount authorized through the tax extension for Superfund through FY 95 be achieved without use of general revenues? Does allocation of authorized general revenues as part of a given overall request for Superfund have any different or greater effect on the federal deficit than allocation of the same total sum without a general revenues component?

ANSWER: In FY 1991, EPA received the full general revenue share authorized in SARA. The FY 1992 President's Budget for Superfund is $1.75 billion and does not request any resources from general revenues. We believe that in FY 1992 the Superfund program can be supported through a combination of taxes, cost recovery, and interest.

The full $5.1 billion reauthorization can be achieved without the use of general revenues based on existing resources in the fund and estimated future tax receipts, cost recoveries, and interest. No, the use of general revenues will not have an effect on the federal deficit.

HISTORY OF FUNDING FOR SUPERFUND

SENATOR LAUTENBERG: Please provide a pie chart, if possible, showing what percentage of the total Superfund request was allocated or will be allocated to specific Superfund functions (i.e. remedial actions, enforcement, etc.) for each fiscal year since the beginning of the programmed on a projected basis for FY 92.

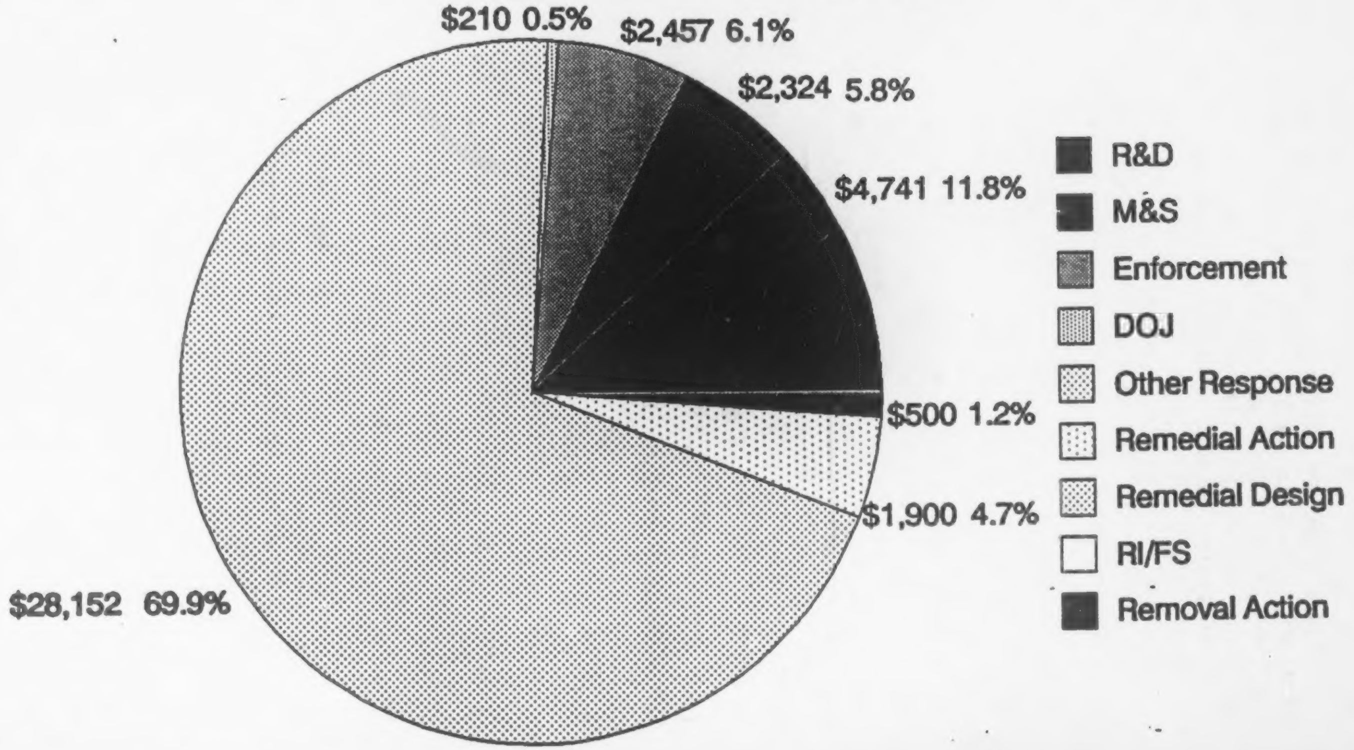
ANSWER: We are providing you with 12 pie charts which illustrate the allocation of Superfund appropriations by function.

SUPERFUND BUDGET DISTRIBUTION

as Noted by the Following Pie Charts

Fiscal Year	Obligations in Thousands
1981	$ 40,284
1982	$ 180,744
1983	$ 230,234
1984	$ 465,619
1985	$ 483,116
1986	$ 406,287
1987	$1,050,748
1988	$1,497,370
1989	$1,543,664
1990	$1,602,845
1991	$1,616,228
1992	$1,750,000

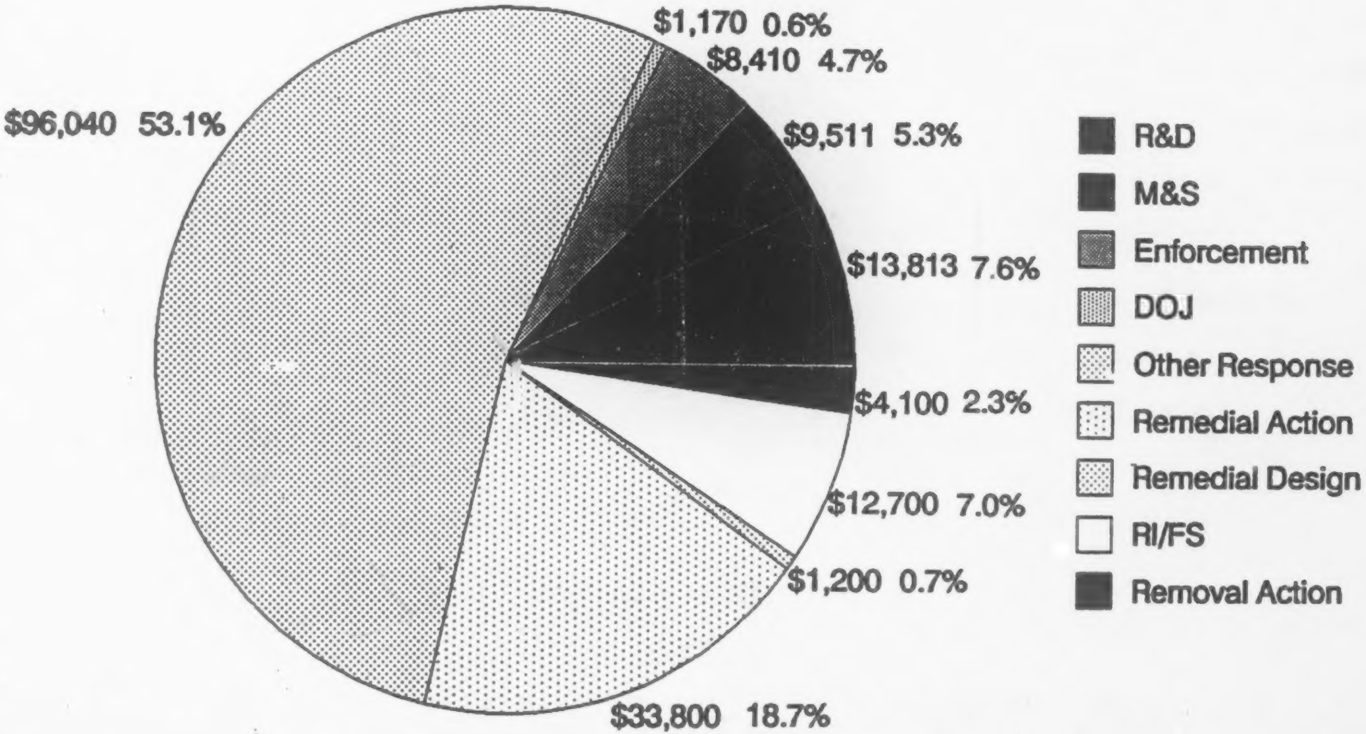
SUPERFUND BUDGET DISTRIBUTION
1981
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1982

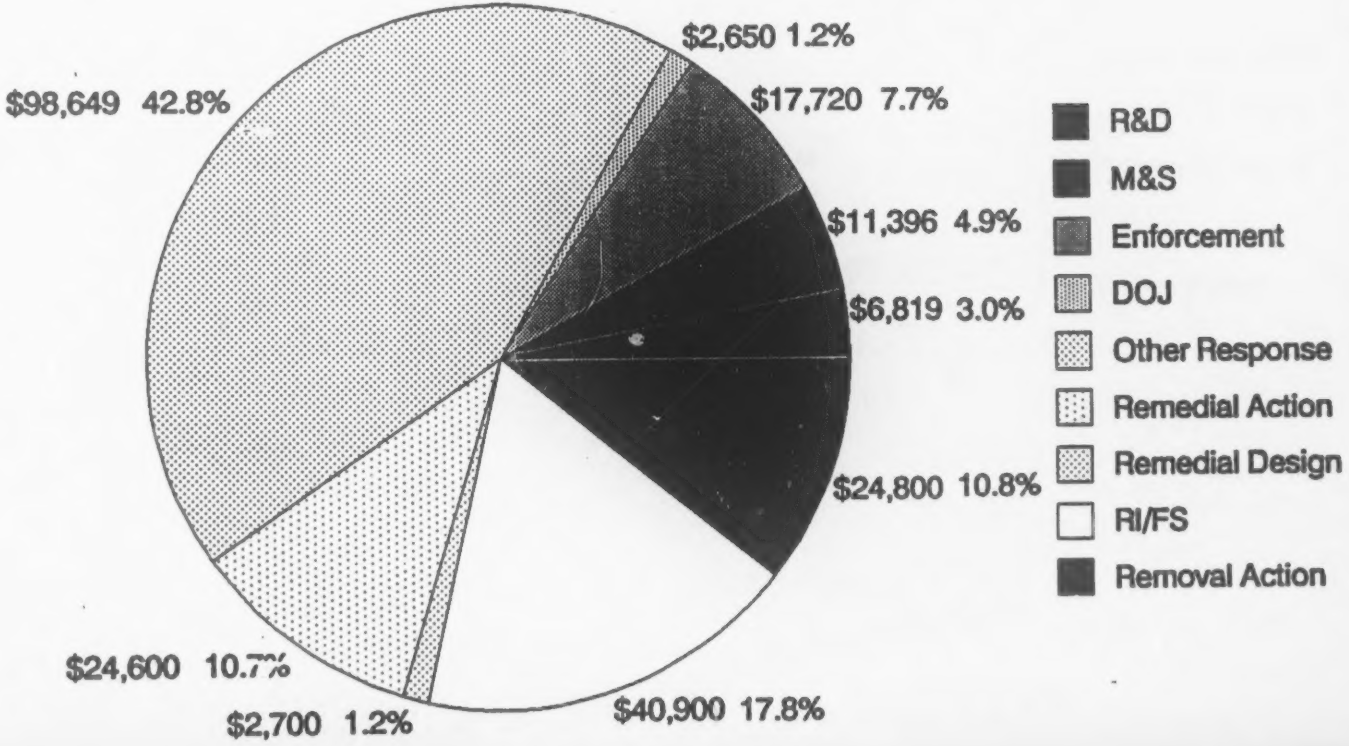
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1983

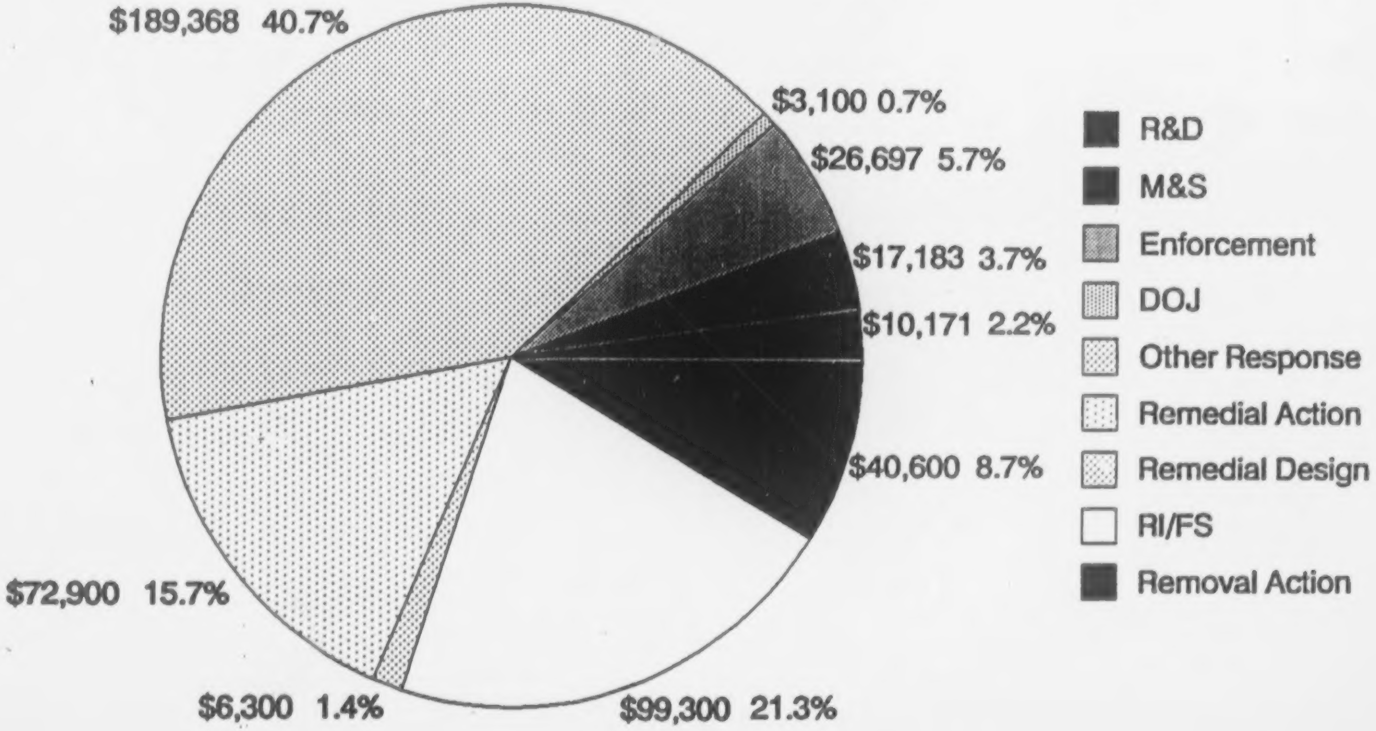
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1984

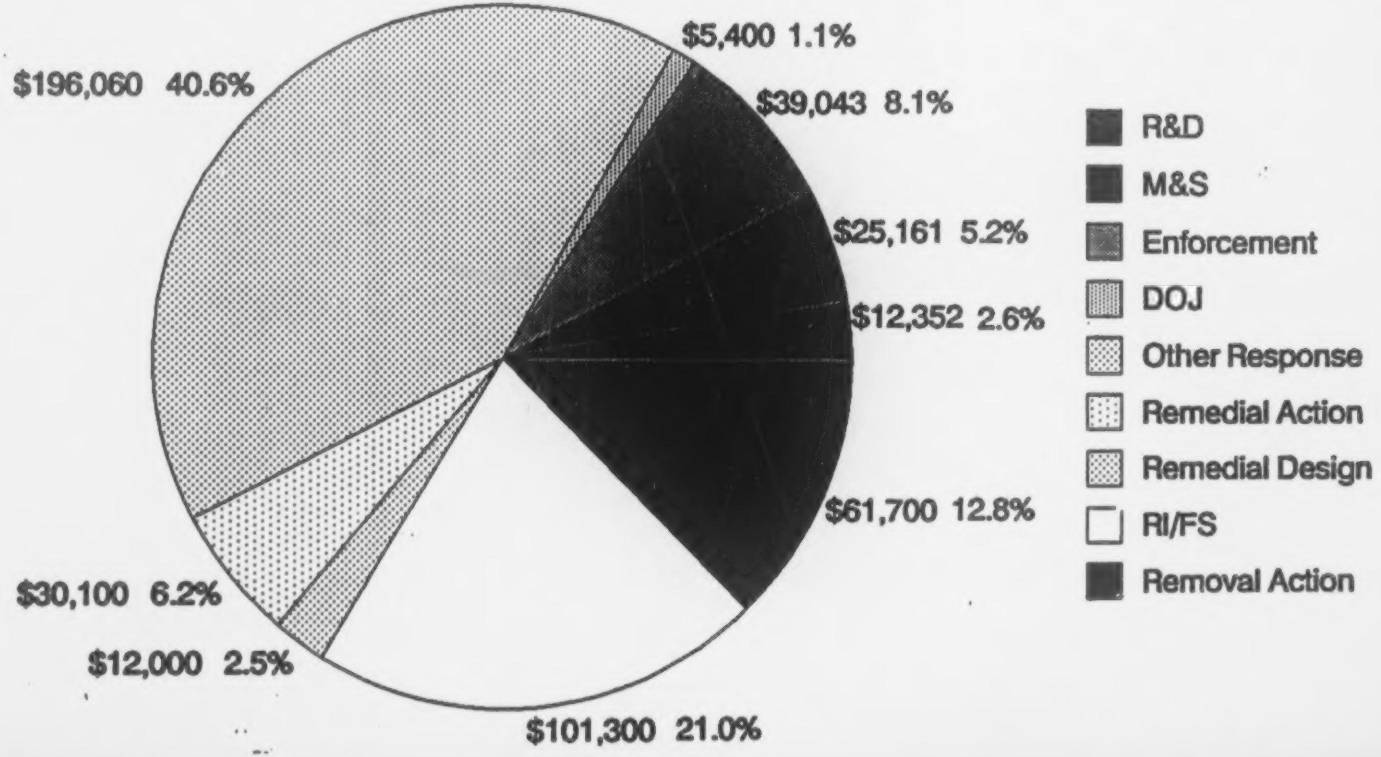
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1985

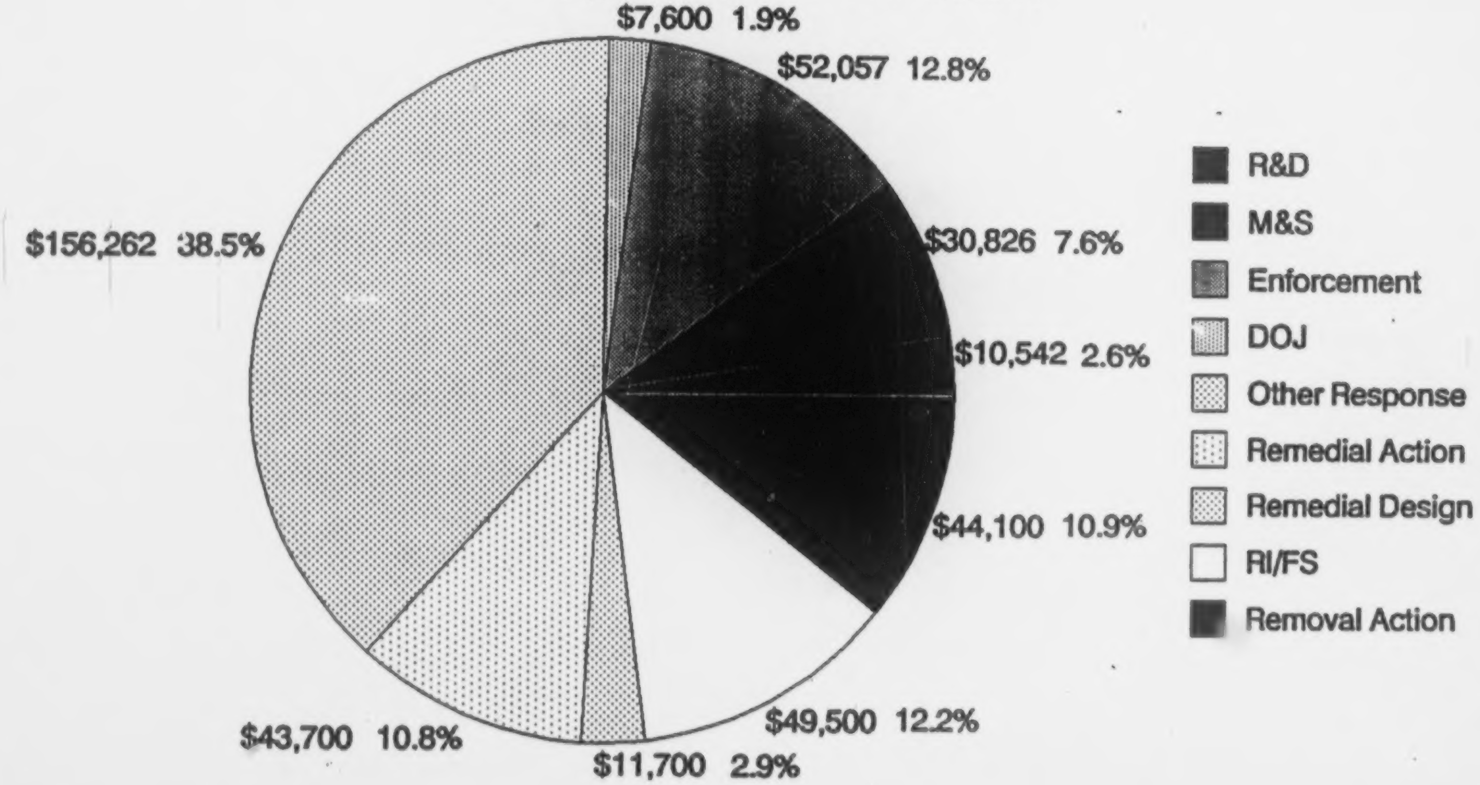
(Obligations in thousands)



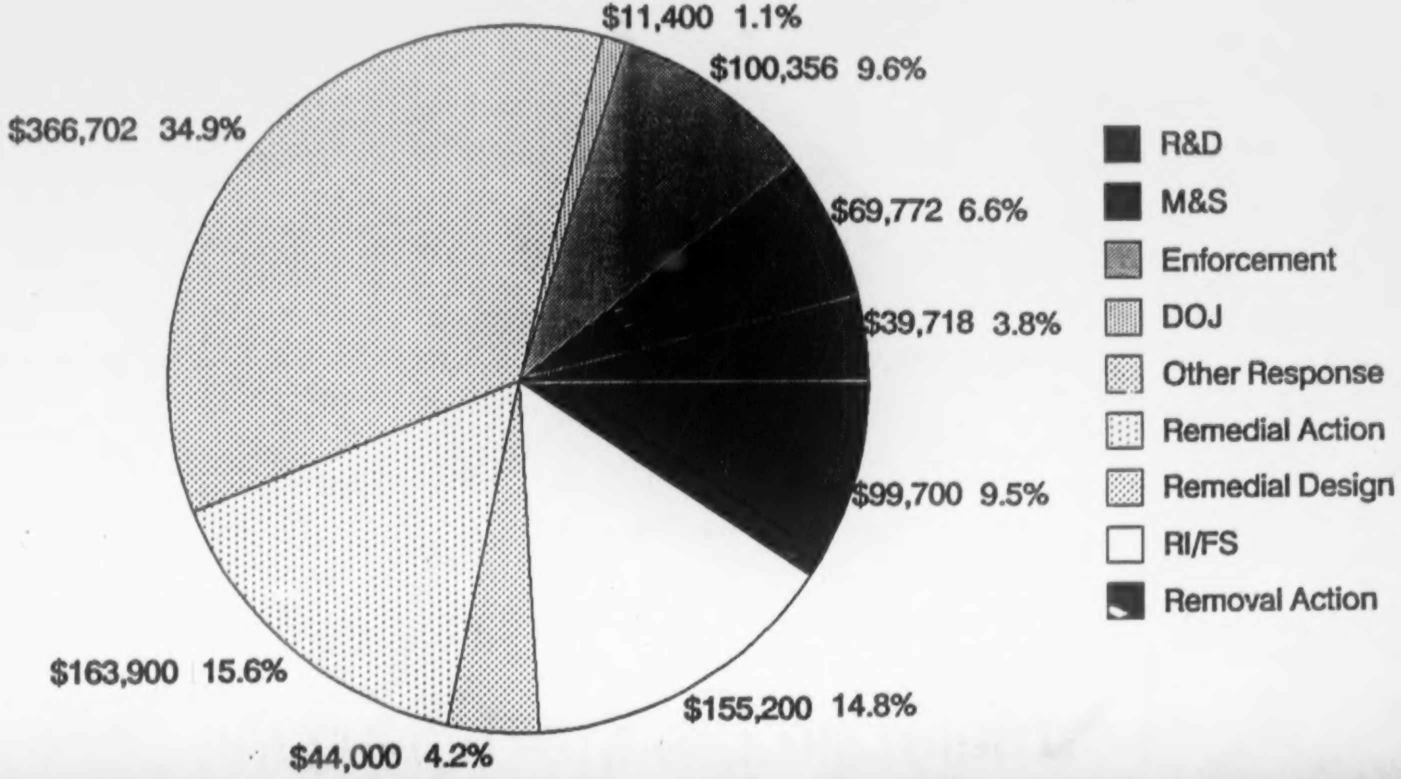
SUPERFUND BUDGET DISTRIBUTION

1986

(Obligations in thousands)



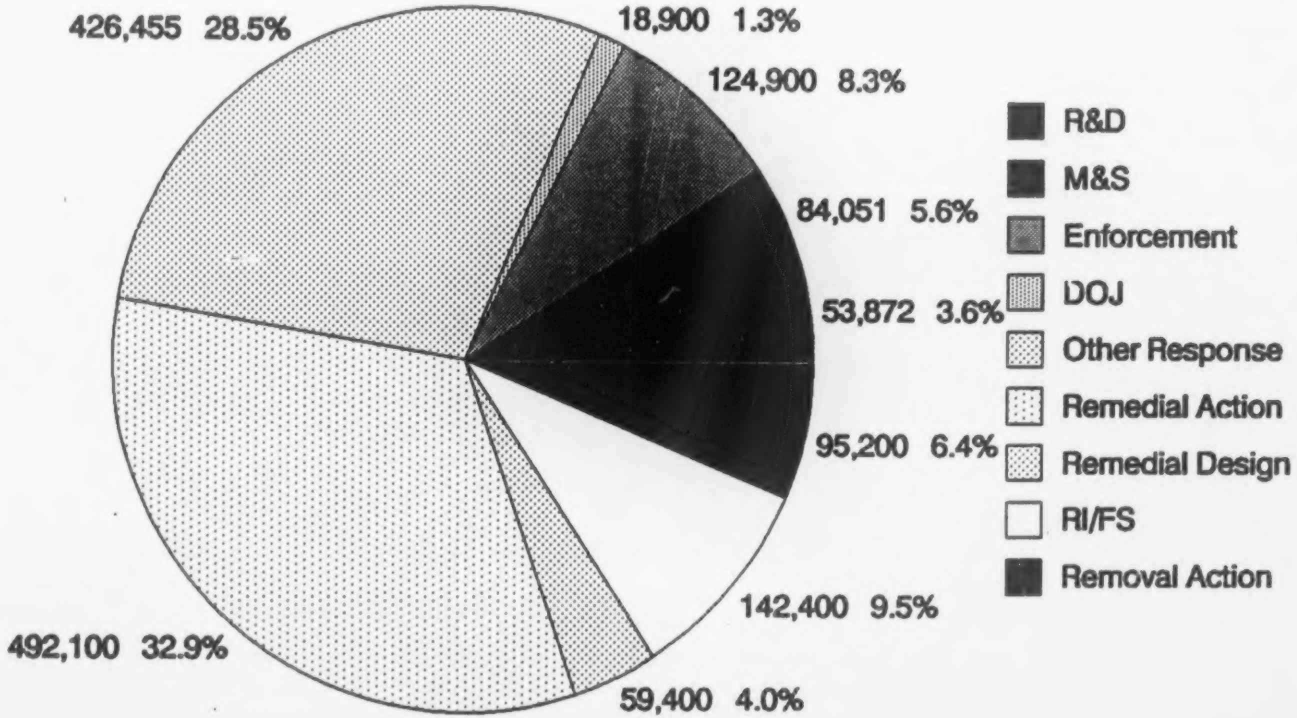
SUPERFUND BUDGET DISTRIBUTION
1987
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1988

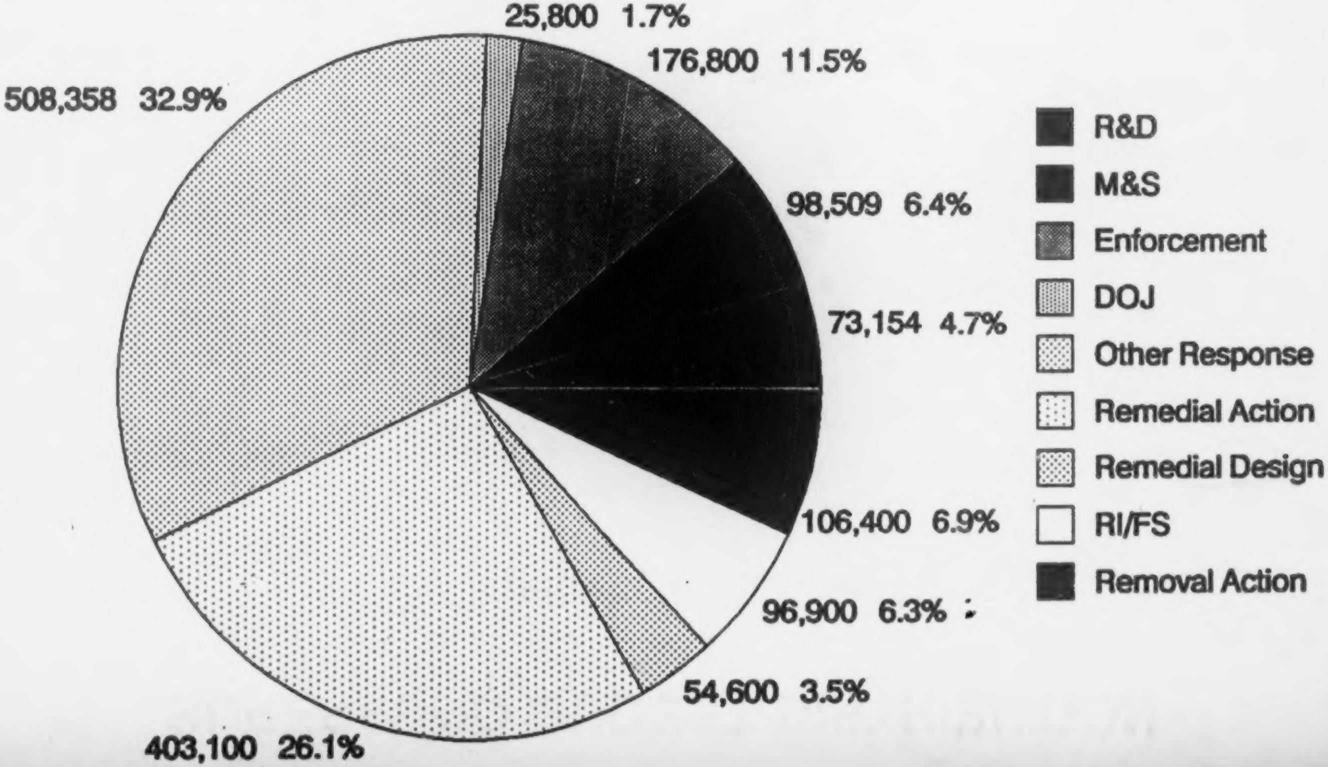
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1989

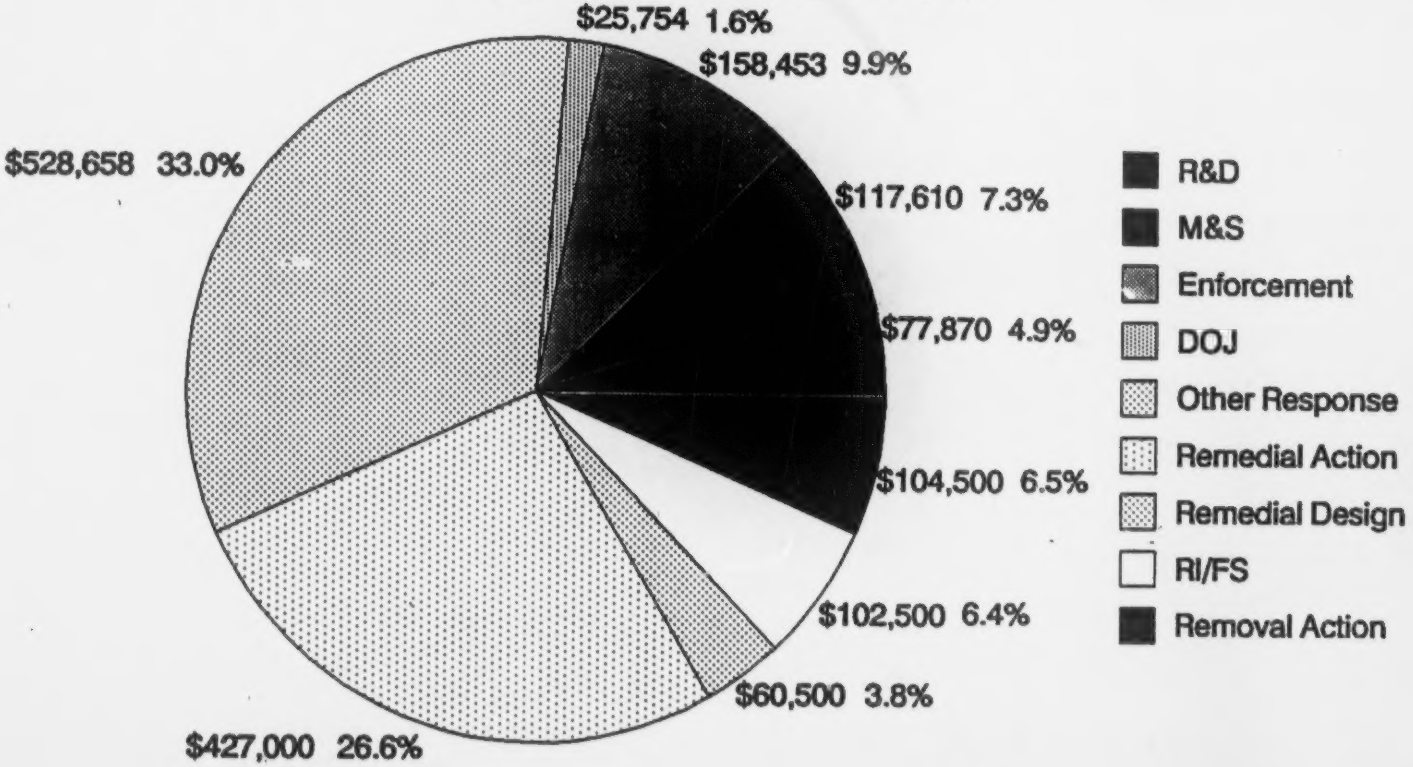
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1990

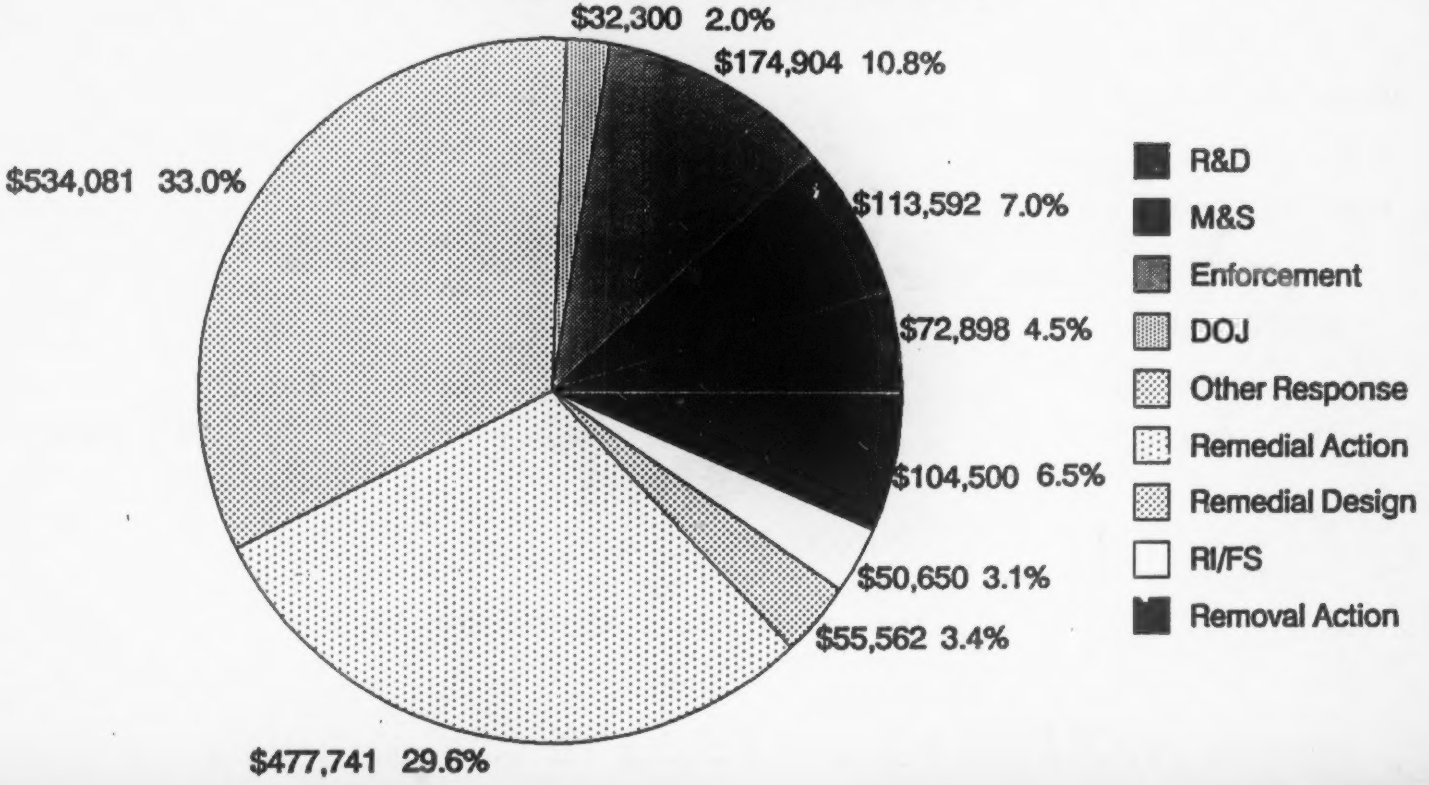
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1991 - Projected

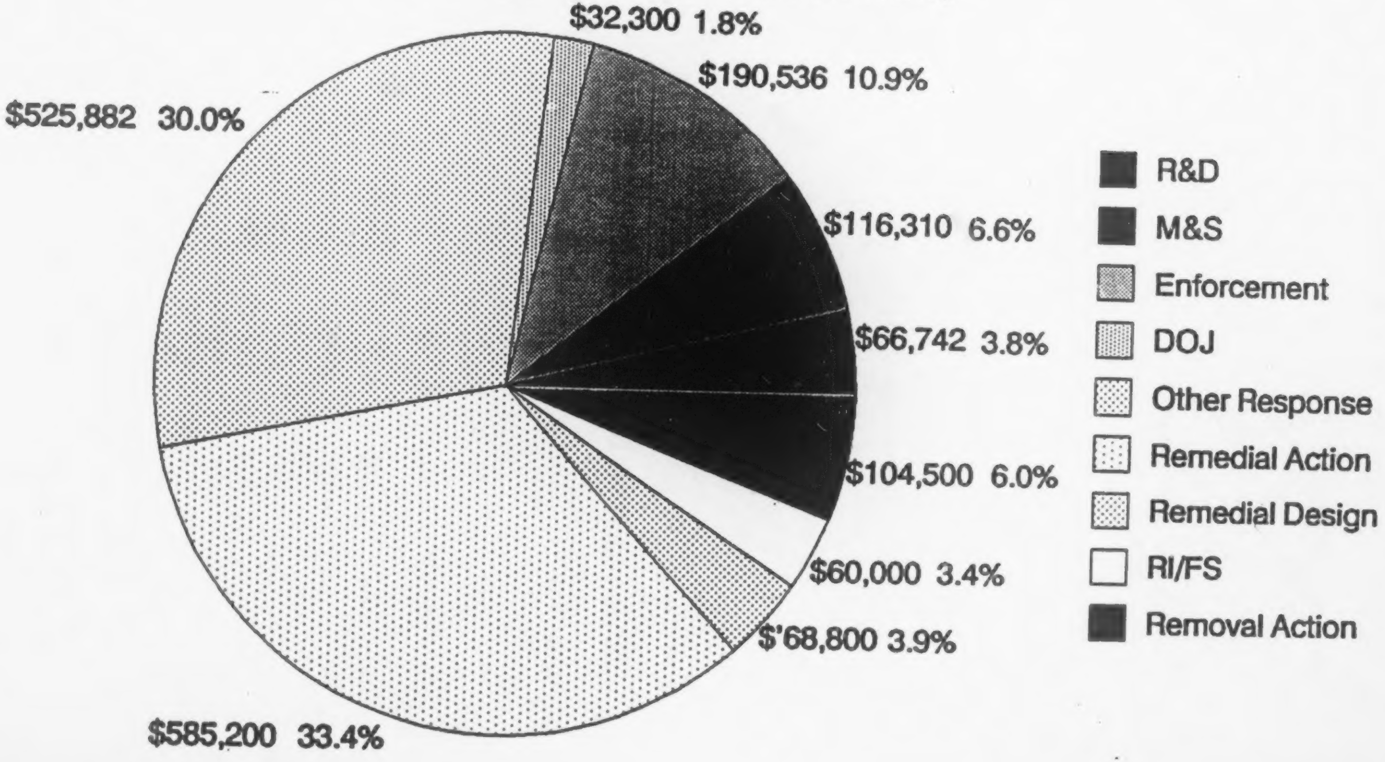
(Obligations in thousands)



SUPERFUND BUDGET DISTRIBUTION

1992 - Projected

(Obligations in thousands)



SHIFTING OF FUNDS BY FUNCTION

SENATOR LAUTENBERG: Please assess whether it is advisable and/or possible to shift more funds into actual remedial and removal funding by decreasing funding for other Superfund functions.

ANSWER: The President's FY 92 request reflects a substantial shift in funding towards actual site cleanup work with a $143 million (+19%) increase over FY 91 in site cleanup activities. We do not recommend any additional funds be moved into actual remedial or removal categories by decreasing funding for other Superfund functions. Many of the activities included in the other categories (i.e., remedial support, response support, and removal support) support the remedial or removal budgets to complete the actions necessary for cleanup.

SUPERFUND ENFORCEMENT AND COST RECOVERIES

SENATOR LAUTENBERG: Please indicate, if possible, what the yield has been since the beginning of the program of such enforcement related activities as settlements (i.e., the dollar value of settlements) and cost recovery. In doing so, please indicate, if possible, how much of the enforcement expenditure for each fiscal year is attributable to the yield in such a year from enforcement activities?

ANSWER: The following tables indicate value of cost recovery settlements and value of response settlements (in millions of dollars) achieved through enforcement efforts from FY 82 to FY 90:

VALUE OF COST RECOVERY SETTLEMENTS:

FY82	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90
$2.7	$4.4	$5.0	$22.5	$15.9	$26.6	$127.5	$119.7	$86.7

VALUE OF RESPONSE SETTLEMENTS:

FY82	FY83	FY84	FY85	FY86	FY87	FY88	FY89	FY90
$22.8	$108.2	$185.4	$152.1	$139	$290.1	$512.1	$1,020	$1,361.5

The time from initiation of a cost recovery action to the time of settlement varies greatly due to the nature of the negotiation/litigation process and the Potentially Responsible Parties (PRP's) involved. Most cost recovery actions are not completed within the same fiscal year that they start. Similarly, the time between settlement and collection varies due to payment schedules developed to accommodate PRP viability. Because of this, it is not possible to draw a one-to-one correlation between dollars expended and response/cost recovery settlement amounts.

SUPERFUND HISTORICAL DATA

SENATOR LAUTENBERG: Please indicate for each fiscal year since the beginning of Superfund (including available projections for FY 91 and FY 92), how many and which states have received remedial funding (i.e. funding for all remedial stages), how much funding each such state received each year, how such states ranked by such funding in each such year, what the total national remedial funding was for each such year, what percentage each state received of the total for each such year. Please also indicate the total amount received for each such states over the life of the program, how such states rank in such receipts, the total remedial funding allocated over the life of the program, and the percentage each such state received of the total over the life of the program.

ANSWER: We are providing you with the following pages that address the above questions (all dollars are in obligations and are in thousands). Attachment I indicates how many and which states have received remedial funding, how much funding each state received per fiscal year, and the national total for each fiscal year. Attachment II indicates how each state ranked by funding per fiscal year. Attachment III indicates what percentage of the national total each state received per fiscal year. Attachment IV indicates what each state has received in FY 1991 to date.

Financial information on remedial funding was not included for FY 1981 and FY 1982 since it is only available by Region and cannot be identified by state. Projections for FY 1992 financial information by state is not available.

ATTACHMENT I

REMEDIAL DOLLARS BY STATE BY FISCAL YEARS
(dollars in thousands)

STATE NAME	1983	1984	1985	1986	1987	1988	1989	1990	TOTAL
ALASKA			$0.2	$36.5	$2.1	$9.2	$2.4	$512.7	$563.1
ALABAMA			$1,147.2	$936.1	$459.0	$681.8	$1,477.4	$643.5	$5,345.0
ARKANSAS	$521.0	$2,395.0	$1,687.0	$202.7	$1,095.5	$3,997.4	$3,720.0	$15,423.1	$29,041.7
ARIZONA	$958.5	$4,172.6	$819.8	$1,026.0	$3,628.1	$2,909.5	$3,193.1	$4,854.9	$21,562.5
CALIFORNIA	$3,815.7	$34,385.6	$21,925.4	$10,232.8	$51,564.6	$43,107.9	$36,348.8	$29,230.1	$230,610.9
COLORADO	$1,390.0	$2,040.4	$2,874.5	$3,436.1	$11,152.3	$41,039.1	$42,046.5	$43,410.3	$147,389.2
CONNECTICUT	$401.8	$994.0	$271.7	$285.8	$493.4	$1,929.3	$860.6	$3,065.4	$8,302.0
DELAWARE	$845.0	$1,553.6	$993.4	$243.9	$885.4	$6,624.8	$2,793.0	$1,883.3	$15,822.4
FLORIDA	$1,019.6	$4,592.2	$3,311.4	$1,230.3	$3,647.1	$24,243.5	$10,839.6	$24,013.1	$72,896.8
GEORGIA			$534.6	$369.4	$193.2	$317.7	$174.3	$178.5	$1,767.7
GUAM			$50.0	$22.5	$275.8	$10.9	$0.3		$359.5
HAWAII			56.5	19.6	0.4	0.1	0.1	0.1	$76.8
IOWA	$310.0	$1,026.0	$330.9	$8,659.4	$1,430.6	$816.8	$1,583.9	$2,282.7	$16,440.3
IDAHO			$703.3	$610.2	$1,448.9	$2,372.9	$3,127.1	$316.1	$8,578.5
ILLINOIS	$1,457.5	$3,955.6	$2,181.3	$597.3	$29.0	$2,569.1	$30,713.2	$5,816.7	$47,319.7
INDIANA	$449.5	$3,168.0	$4,017.9	$4,658.9	$4,848.7	$7,051.2	$6,078.0	$8,878.7	$39,150.9
KANSAS		$350.0	$1,668.0	$435.9	$1,248.5	$2,134.9	$7,815.4	$1,239.2	$14,891.9
KENTUCKY	$548.0	$1,545.0	$598.5	$427.1	$1,076.4	$4,333.5	$3,501.2	$2,010.2	$14,039.9
LOUISIANA	$1,288.1	$1,363.0	$1,004.6	$4,255.0	$1,518.2	$10,018.2	$10,931.1	$6,361.0	$36,739.2
MASSACHUSETTS	$3,890.7	$15,353.0	$2,888.9	$7,415.2	$37,334.7	$30,020.7	$20,294.2	$101,265.3	$218,442.7
MARYLAND	$1,030.0	$481.0	$1,585.4	$971.9	$637.4	$8,386.7	$3,973.8	$1,558.5	$18,624.7
MAINE	$523.0	$567.0	$988.1	$16.7	$1,285.4	$2,282.0	$1,277.5	$6,478.4	$13,418.1
MICHIGAN	$2,025.3	$8,440.0	$9,141.6	$5,488.0	$13,038.9	$33,093.7	$30,244.9	$11,582.1	$113,054.5
MINNESOTA	$3,832.7	$1,967.6	$4,101.2	$481.6	$6,580.2	$9,926.5	$3,517.8	$13,164.2	$43,571.8
MISSOURI	$1,030.8	$2,611.3	$2,551.2	$1,189.1	$4,805.6	$8,769.3	$5,603.7	$3,025.5	$29,586.5
MISSISSIPPI			$350.3	$805.4	$26.9	$497.1	$209.2	$308.4	$2,197.3
MONTANA	$1,679.1	$850.6	$2,543.7	$789.0	$3,972.6	$7,127.4	$4,470.8	$3,688.9	$25,122.1
NORTH CAROLINA	$259.3		$213.0	$25.4	$1,164.7	$2,611.4	$6,083.4	$4,711.6	$15,068.8
NORTH DAKOTA		$32.0	$82.6	$26.7	$330.4	$238.4	$7,702.6	$162.8	$8,575.5
NEBRASKA			$1,009.2	$612.9	$1,713.4	$1,703.8	$2,536.0	$3,087.4	$10,662.7

REMEDIAL DOLLARS BY STATE BY FISCAL YEARS

(dollars in thousands)

STATE NAME	1983	1984	1985	1986	1987	1988	1989	1990	TOTAL
NEW HAMPSHIRE	$5,400.7	$2,296.1	$3,471.5	$2,005.0	$3,332.0	$4,043.0	$4,863.4	$10,012.8	$35,424.5
NEW JERSEY	$10,357.5	$33,434.3	$23,461.0	$20,873.0	$61,303.3	$126,636.8	$120,863.8	$126,474.6	$523,404.3
NEW MEXICO	$230.0	$1,225.0	$1,877.8	$1,325.2	$931.7	$575.8	$1,588.3	$2,096.2	$9,850.0
NEW YORK	$5,257.7	$9,846.4	$14,969.0	$8,602.2	$38,882.7	$29,964.1	$34,855.0	$43,162.5	$185,539.6
NEVADA			$40.2	$1.5	$7.9	$7.9	$0.5	$760.6	$818.6
OHIO	$980.7	$4,410.0	$3,766.3	$3,342.9	$12,627.7	$18,459.0	$6,258.1	$9,593.5	$59,438.2
OKLAHOMA		$5,239.2	$1,011.0	$1,185.6	$1,475.0	$1,532.9	$1,734.9	$2,943.2	$15,121.8
OREGON		$139.0	$89.7	$103.8	$1,981.2	$1,313.1	$3,348.5	$946.2	$7,921.5
PENNSYLVANIA	$9,734.3	$11,083.2	$7,946.3	$2,214.4	$43,850.9	$50,950.6	$69,952.0	$42,176.6	$237,908.3
PUERTO RICO	$50.0	$1,190.0	$358.1	$27.5	$160.6	$353.9	$585.6	$369.4	$3,095.1
RHODE ISLAND		$989.0	$1,519.9	$1,326.6	$4,921.0	$7,470.6	$3,631.1	$2,876.0	$22,734.2
SOUTH CAROLINA	$299.0	$1,074.0	$1,648.0	$662.7	$885.9	$3,724.8	$6,083.4	$4,161.4	$18,539.2
SOUTH DAKOTA				$7.4	$0.9	$4.4	$53.7	$165.0	$231.4
TENNESSEE	$150.0	$643.4	$102.3	$360.9	$341.2	$889.4	$5,158.0	$1,254.7	$8,899.9
TEXAS	$1,698.8	$8,345.9	$4,929.5	$8,985.3	$4,700.8	$38,351.8	$46,970.9	$19,764.2	$133,747.2
UTAH	$19.1		$1,139.7	$40.6	$786.4	$788.7	$1,361.8	$3,731.8	$7,868.1
VIRGINIA	$470.0	$1,811.6	$1,148.4	$451.4	$827.9	$1,271.3	$6,992.2	$5,892.5	$18,865.3
VIRGIN ISLAND					$6.0	$1.6	$25.5	$13.0	$46.1
VERMONT		$360.0	$115.0	$265.0	$945.5	$686.7	$1,467.9	$2,604.5	$6,424.6
WASHINGTON	$3,337.5	$3,995.2	$2,288.7	$3,842.5	$3,843.3	$3,843.3	$8,221.9	$12,092.3	$41,464.7
WISCONSIN		$300.0	$2,102.3	$2,343.8	$7,181.1	$4,188.2	$2,738.8	$3,950.3	$22,804.5
WEST VIRGINIA	$80.0	$510.0	$816.8	$208.4	$677.9	$2,602.3	$11,203.7	$4,176.0	$20,275.1
WYOMING			$10.0	$68.2	$88.2	$9.4	$115.8	$196.0	$487.6
NATIONAL TOTAL	$65,340.9	$178,735.8	$142,442.9	$113,731.3	$345,646.5	$556,494.4	$589,194.7	$598,546.0	$2,590,132.5

ATTACHMENT II

STATE RANK OF REMEDIAL DOLLARS BY FISCAL YEAR

STATE NAME	1983	1984	1985	1986	1987	1988	1989	1990	TOTAL
ALABAMA			26	23	40	41	39	42	43
ALASKA			51	44	51	49	50	43	48
ARIZONA	19	11	33	21	18	25	31	20	22
ARKANSAS	23	16	20	40	29	22	26	9	18
CALIFORNIA	7	1	2	2	2	3	5	6	3
COLORADO	13	18	13	11	8	4	4	3	6
CONNECTICUT	26	28	41	36	39	32	43	28	39
DELAWARE	20	21	31	38	34	18	33	36	28
FLORIDA	17	9	11	18	17	9	12	7	9
GEORGIA			37	34	44	45	46	48	46
GUAM			48	48	43	47	52		51
HAWAII			47	49	53	53	53	52	52
IDAHO			35	28	24	29	32	45	37
ILLINOIS	12	13	17	29	47	28	7	19	11
INDIANA	25	14	8	8	12	17	20	15	14
IOWA	27	27	40	4	25	38	38	33	27
KANSAS		36	21	32	27	31	14	39	31
KENTUCKY	21	22	36	33	30	19	29	35	32
LOUISIANA	14	23	30	9	22	11	11	17	15
MAINE	22	32	32	50	26	30	42	16	33
MARYLAND	16	34	23	22	38	14	25	37	26
MASSACHUSETTS	5	3	12	6	5	7	9	2	4
MICHIGAN	9	6	4	7	6	6	8	12	8
MINNESOTA	6	19	7	30	10	12	28	10	12
MISSISSIPPI			39	24	48	43	45	46	45
MISSOURI	15	15	14	19	13	13	21	29	17
MONTANA	11	30	15	25	15	16	24	26	19
NEBRASKA			29	27	21	33	35	27	34
NEVADA			49	52	49	50	51	41	47
NEW HAMPSHIRE	3	17	10	15	19	21	23	13	16

STATE RANK OF REMEDIAL DOLLARS BY FISCAL YEAR

STATE NAME	1983	1984	1985	1986	1987	1988	1989	1990	TOTAL
NEW JERSEY	1	2	1	1	1	1	1	1	1
NEW MEXICO	30	24	19	17	32	42	37	34	35
NEW YORK	4	5	3	5	4	8	6	4	5
NORTH CAROLINA	29		42	47	28	26	19	21	29
NORTH DAKOTA		39	46	46	42	46	15	50	38
OHIO	18	10	9	12	7	10	17	14	10
OKLAHOMA		8	28	20	23	34	36	30	30
OREGON		38	45	41	20	35	30	40	41
PENNSYLVANIA	2	4	5	14	3	2	2	5	2
PUERTO RICO	33	25	38	45	45	44	44	44	44
RHODE ISLAND		29	24	16	11	15	27	31	21
SOUTH CAROLINA	28	26	22	26	33	24	18	23	25
SOUTH DAKOTA				51	52	51	48	49	50
TENNESSEE	31	31	44	35	41	37	22	38	36
TEXAS	10	7	6	3	14	5	3	8	7
UTAH	34		27	43	36	39	41	25	40
VERMONT		35	43	37	31	40	40	32	42
VIRGIN ISLAND					50	52	49	51	53
VIRGINIA	24	20	25	31	35	36	16	18	24
WASHINGTON	8	12	16	10	16	23	13	11	13
WEST VIRGINIA	32	33	34	39	37	27	10	22	23
WISCONSIN		37	18	13	9	20	34	24	20
WYOMING			50	42	46	48	47	47	49

ATTACHMENT III

PERCENT OF REMEDIAL DOLLARS BY STATE BY FISCAL YEAR

STATE NAME	1983	1984	1985	1986	1987	1988	1989	1990	OVERALL PERCENT
ALASKA	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%
ALABAMA	0.0%	0.0%	0.8%	0.8%	0.1%	0.1%	0.3%	0.1%	0.2%
ARKANSAS	0.8%	1.3%	1.2%	0.2%	0.3%	0.7%	0.6%	2.6%	1.1%
ARIZONA	1.5%	2.3%	0.6%	0.9%	1.0%	0.5%	0.5%	0.8%	0.8%
CALIFORNIA	5.8%	19.2%	15.4%	9.0%	14.9%	7.7%	6.2%	4.9%	8.9%
COLORADO	2.1%	1.1%	2.0%	3.0%	3.2%	7.4%	7.1%	7.3%	5.7%
CONNECTICUT	0.6%	0.6%	0.2%	0.3%	0.1%	0.3%	0.1%	0.5%	0.3%
DELAWARE	1.3%	0.9%	0.7%	0.2%	0.3%	1.2%	0.5%	0.3%	0.6%
FLORIDA	1.6%	2.6%	2.3%	1.1%	1.1%	4.4%	1.8%	4.0%	2.8%
GEORGIA	0.0%	0.0%	0.4%	0.3%	0.1%	0.1%	0.0%	0.0%	0.1%
GUAM	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%
HAWAII	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
IOWA	0.5%	0.6%	0.2%	7.6%	0.4%	0.1%	0.3%	0.4%	0.6%
IDAHO	0.0%	0.0%	0.5%	0.5%	0.4%	0.4%	0.5%	0.1%	0.3%
ILLINOIS	2.2%	2.2%	1.5%	0.5%	0.0%	0.5%	5.2%	1.0%	1.8%
INDIANA	0.7%	1.8%	2.8%	4.1%	1.4%	1.3%	1.0%	1.5%	1.5%
KANSAS	0.0%	0.2%	1.2%	0.4%	0.4%	0.4%	1.3%	0.2%	0.6%
KENTUCKY	0.8%	0.9%	0.4%	0.4%	0.3%	0.8%	0.6%	0.3%	0.5%
LOUISIANA	2.0%	0.8%	0.7%	3.7%	0.4%	1.8%	1.9%	1.1%	1.4%
MASSACHUSETTS	6.0%	8.6%	2.0%	6.5%	10.8%	5.4%	3.4%	16.9%	8.4%
MARYLAND	1.6%	0.3%	1.1%	0.9%	0.2%	1.5%	0.7%	0.3%	0.7%
MAINE	0.8%	0.3%	0.7%	0.0%	0.4%	0.4%	0.2%	1.1%	0.5%
MICHIGAN	3.1%	4.7%	6.4%	4.8%	3.8%	5.9%	5.1%	1.9%	4.4%
MINNESOTA	5.9%	1.1%	2.9%	0.4%	1.9%	1.8%	0.6%	2.2%	1.7%
MISSOURI	1.6%	1.5%	1.8%	1.0%	1.4%	1.6%	1.0%	0.5%	1.1%
MISSISSIPPI	0.0%	0.0%	0.2%	0.7%	0.0%	0.1%	0.0%	0.1%	0.1%
MONTANA	2.6%	0.5%	1.8%	0.7%	1.1%	1.3%	0.8%	0.6%	1.0%
NORTH CAROLINA	0.4%	0.0%	0.1%	0.0%	0.3%	0.5%	1.0%	0.8%	0.6%
NORTH DAKOTA	0.0%	0.0%	0.1%	0.0%	0.1%	0.0%	1.3%	0.0%	0.3%

PERCENT OF REMEDIAL DOLLARS BY STATE BY FISCAL YEAR

STATE NAME	1983	1984	1985	1986	1987	1988	1989	1990	OVERALL PERCENT
NEBRASKA	0.0%	0.0%	0.7%	0.5%	0.5%	0.3%	0.4%	0.5%	0.4%
NEW HAMPSHIRE	8.3%	1.3%	2.4%	1.8%	1.0%	0.7%	0.8%	1.7%	1.4%
NEW JERSEY	15.9%	18.7%	16.5%	18.4%	17.7%	22.8%	20.5%	21.1%	20.2%
NEW MEXICO	0.4%	0.7%	1.3%	1.2%	0.3%	0.1%	0.3%	0.4%	0.4%
NEW YORK	8.0%	5.5%	10.5%	7.6%	11.2%	5.4%	5.9%	7.2%	7.2%
NEVADA	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.0%
OHIO	1.5%	2.5%	2.6%	2.9%	3.7%	3.3%	1.1%	1.6%	2.3%
OKLAHOMA	0.0%	2.9%	0.7%	1.0%	0.4%	0.3%	0.3%	0.5%	0.6%
OREGON	0.0%	0.1%	0.1%	0.1%	0.6%	0.2%	0.6%	0.2%	0.3%
PENNSYLVANIA	14.9%	6.2%	5.6%	1.9%	12.7%	9.2%	11.9%	7.0%	9.2%
PUERTO RICO	0.1%	0.7%	0.3%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%
RHODE ISLAND	0.0%	0.6%	1.1%	1.2%	1.4%	1.3%	0.6%	0.5%	0.9%
SOUTH CAROLINA	0.5%	0.6%	1.2%	0.6%	0.3%	0.7%	1.0%	0.7%	0.7%
SOUTH DAKOTA	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
TENNESSEE	0.2%	0.4%	0.1%	0.3%	0.1%	0.2%	0.9%	0.2%	0.3%
TEXAS	2.6%	4.7%	3.5%	7.9%	1.4%	6.9%	8.0%	3.3%	5.2%
UTAH	0.0%	0.0%	0.8%	0.0%	0.2%	0.1%	0.2%	0.6%	0.3%
VIRGINIA	0.7%	1.0%	0.8%	0.4%	0.2%	0.2%	1.2%	1.0%	0.7%
VIRGIN ISLAND	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
VERMONT	0.0%	0.2%	0.1%	0.2%	0.3%	0.1%	0.2%	0.4%	0.2%
WASHINGTON	5.1%	2.2%	1.6%	3.4%	1.1%	0.7%	1.4%	2.0%	1.6%
WISCONSIN	0.0%	0.2%	1.5%	2.1%	2.1%	0.8%	0.5%	0.7%	0.9%
WEST VIRGINIA	0.1%	0.3%	0.6%	0.2%	0.2%	0.5%	1.9%	0.7%	0.8%
WYOMING	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%

ATTACHMENT IV

ACTUAL REMEDIAL DOLLARS BY STATE FOR FY 1991
(dollars in thousands)

STATE NAME	RECEIVED AS OF 3/15/91	STATE PERCENT	STATE RANK
ALABAMA	$214.6	0.2%	34
ALASKA	$7.0	0.0%	48
ARIZONA	$559.1	0.5%	19
ARKANSAS	$282.1	0.3%	27
CALIFORNIA	$3,012.9	2.9%	6
COLORADO	$1,547.2	1.5%	10
CONNECTICUT	$138.2	0.1%	39
DELAWARE	$247.0	0.2%	28
FLORIDA	$541.3	0.5%	20
GEORGIA	$75.1	0.1%	42
GUAM	$100.3	0.1%	40
HAWAII		0.0%	53
IDAHO	$221.2	0.2%	32
ILLINOIS	$874.5	0.8%	14
INDIANA	$300.1	0.3%	25
IOWA	$685.2	0.7%	17
KANSAS	$436.8	0.4%	21
KENTUCKY	$198.4	0.2%	35
LOUISIANA	$61,982.4	59.4%	1
MAINE	$237.9	0.2%	30
MARYLAND	$25.7	0.0%	46
MASSACHUSETTS	$864.5	0.8%	15
MICHIGAN	$955.0	0.9%	11
MINNESOTA	$358.0	0.3%	24
MISSISSIPPI	$3.9	0.0%	52
MISSOURI	$74.5	0.1%	43
MONTANA	$596.7	0.6%	18
NEBRASKA	$916.5	0.9%	12
NEVADA	$13.0	0.0%	47
NEW HAMPSHIRE	$2,658.6	2.5%	7
NEW JERSEY	$7,172.7	6.9%	2
NEW MEXICO	$299.3	0.3%	26
NEW YORK	$3,160.8	3.0%	5
NORTH CAROLINA	$860.4	0.8%	16
NORTH DAKOTA	$6.2	0.0%	50
OHIO	$3,825.1	3.7%	3
OKLAHOMA	$877.9	0.8%	13
OREGON	$227.9	0.2%	31
PENNSYLVANIA	$3,520.3	3.4%	4
PUERTO RICO	$36.7	0.0%	45
RHODE ISLAND	$169.2	0.2%	36
SOUTH CAROLINA	$65.9	0.1%	44
SOUTH DAKOTA	$159.6	0.2%	38

ATTACHMENT IV

ACTUAL REMEDIAL DOLLARS BY STATE FOR FY 1991
(dollars in thousands)

STATE NAME	RECEIVED AS OF 3/15/91	STATE PERCENT	STATE RANK
TENNESSEE	$409.9	0.4%	22
TEXAS	$2,285.5	2.2%	8
UTAH	$399.5	0.4%	23
VERMONT	$217.2	0.2%	33
VIRGIN ISLAND	$4.0	0.0%	51
VIRGINIA	$161.1	0.2%	37
WASHINGTON	$2,095.6	2.0%	9
WEST VIRGINIA	$6.3	0.0%	49
WISCONSIN	$238.1	0.2%	29
WYOMING	$82.9	0.1%	41
	$104,409.8		

COST RECOVERY

SENATOR LAUTENBERG: In actual dollars received (i.e, actually in the treasury), please indicate by fiscal year since the inception of Superfund, how much funds have been cost recovered or are projected to be recovered through FY 92? How does the total amount compare with the commitments of the management reviews? Please compare the total for each fiscal year as a percentage to both the cumulative amount ready for recovery and cumulative obligations.

ANSWER: The following table indicates the actual amounts collected (in millions of dollars) through cost recovery efforts from FY 82 to FY 90 and projected recoveries for FY 91 and FY 92.

Projected and Actual Cost Recovery Returns

FY	$ in Millions
82	2.3
83	0.4
84	3.4
85	8.0
86	15.7
87	18.9
88	55.6
89	66.5
90	104.9
91	135.0
92	200.0
Total	$610.7

The Agency is continuing to develop a mechanism for projecting cost recovery settlements. The values reported in the cost recovery goals report, prepared in response to the Superfund Management Review, were ranges of settlements projected for the years FY 90-FY 92. Collection of the settlements occur on a variable, delayed payment schedule for a period of years after the settlement. The Agency is working to calculate standard data for cost recovery collection schedules. When this data becomes available, the Agency may be able to augment its projection efforts to include collection targets.

The projected amount of cumulative obligations eligible for cost recovery is $2.36 billion. The $610.7 million in actual collections addresses 25.8% of the eligible cumulative obligations. Settlements valued at $470 million bring the percentage of addressed cumulative obligations to 45.8%. An additional $668 million or 28.3% has been filed or referred and $44.7 million (2%) has been written off due to non-viable or orphan sites. The combination of settlements, filings, referrals, and write offs accounts for 50.2% of eligible obligations.

SUPERFUND MANAGEMENT REVIEW

SENATOR LAUTENBERG: What percentage of the milestones of the Management Review have been complied with? (Indicate also the raw number of such milestones as well as those milestones complied with). For any milestone missed, or projected to be missed in FY 91 or FY 92, please provide an explanation.

ANSWER: The Agency has recently conducted an end-of-year analysis on the Superfund Management Review (SMR) for FY 90. The analysis shows that of the 120 workplans published in "A Management Review of the Superfund Program - Implementation Plan" 102 have been completed (85%). The following is a status of outstanding projects as of March 25, 1991.

Progress has been made on the development of methods for identifying and documenting expenses to support cost recovery efforts. The Cost Recovery Rule is expected to be proposed in April 1991.

The cost recovery goals project to establish and set realistic goals for the cost recovery program in succeeding years will be issued by the end of the third quarter, FY 91.

Training materials for case/site management planning are due for completion in June 1991. The development of the case/site management planning process will include provisions for coordination among different offices and organizations involved in the enforcement process. Case/site management planning will be incorporated into the Superfund Academy curriculum and other training materials.

The Alternative Dispute Resolution (ADR) strategy is not complete. The ADR leverages a real threat of litigation against recalcitrant parties and an increased effort to have potentially responsible parties conduct future removal actions. Although the Regional pilot projects will be multi-year efforts, an interim report on the ADR strategy is scheduled for the end of FY 91.

Guidance on the Five-Year Review of sites is on schedule for completion in the second quarter of FY 91. The goal of the five-year review of sites is to assure the public that EPA is carefully monitoring sites and that no site, where hazardous substances remain, will be deleted from the NPL until there is no danger to public health from the remaining hazardous substances.

The issuance of the revised Hazard Ranking System in late 1990 has expanded the criteria for the listing of a site on the NPL. Training and application of an expert system in FY 90 will help provide a common bases for listing sites.

The SMR highlighted the proposed Environmental Testing and Evaluation Center (E-TEC) as an important component to help in demonstrating and evaluating new technologies. As a fixed, fully permitted facility, which has its own pollution control equipment, the E-TEC would be able to provide for fast and completed testing of innovative technologies. The planning, which began well before FY 90, was continued this year as EPA issued the environmental impact statement, moved to complete the design of the facility, and pursued permits. Unfortunately, it was not possible to initiate construction as projected in the SMR due to issues regarding funding and public support.

The schedule for implementing the final technical assistance grant (TAG) rule was changed from September 30, 1990 to September 30, 1991. This additional year provides the Agency with an opportunity to gain experience under the new revisions before becoming bound to the final rule.

The recommendation for developing additional procedures for detecting/avoiding conflict of interests (COI) has a protracted milestone schedule due to lengthy regulatory change process. An extended comment period on the proposed rule, the receipt of numerous, extensive comments on the rule have all added to the delay. The Agency is working to resolve all of the above issues and the final rule on addition COI procedures is projected for April 1991.

Three SMR recommendations to be completed in the area of communicating progress to the public are yet to be completed. They are the issuance of a National communications strategy, publication of a guide to Superfund for journalists, and the convening of a workshop of outside experts to gather new methods of publication and communication.

UNILATERAL ADMINISTRATIVE ORDERS

SENATOR LAUTENBERG: How many unilateral administrative orders have been issued for Remedial Design and Remedial Action since the beginning of Superfund, and through the current fiscal year?

ANSWER: The following unilateral administrative orders have been issued for Remedial Design and Remedial Action: FY'80-0; FY'81-0; FY'82-0; FY'83-3; FY'84-4; FY'85-5; FY'86-5; FY'87-3; FY'88-13; FY'89-28; FY'90-44: FY'91-3.

Please note that the FY'91 value is for UAOs issued in the first quarter. The total projection for UAOs issued for RD/RA in FY'91 is 27.

UNILATERAL REFERRALS TO DOJ

SENATOR LAUTENBERG: How many unilateral referrals has EPA made for RD/RA to the Justice Department for each fiscal year since the beginning of Superfund, and through the current time into the current fiscal year?

ANSWER: The number of referrals made to the Justice Department seeking injunctive relief for RD/RA are as follows:

FY'80-6; FY'81-4; FY'82-5; FY'83-4; FY'84-5; FY'85-2; FY'86-7; FY'87-0; FY'88-3; FY'89-0; FY'90-4; FY'91-0

Please note that the FY'91 value is for RD/RA injunctive referrals issued in the first quarter. The total projection for RD/RA injunctive referrals in FY'91 is 1.

SUPERFUND TREBLE DAMAGE CASES

SENATOR LAUTENBERG: How many treble damage cases have been filed for RD/RA for each fiscal year since the beginning of Superfund, and through the current time in the current fiscal year? Please also indicated separately any treble damage case filed for activities other than RD/RA (specifying what such activities were) for each fiscal year since the beginning of the program, including the current time in the current fiscal year.

ANSWER: We currently have the following information on treble damage cases filed:

Removal	RD/RA	
FY'85	2	0
FY'86	1	0
FY'87	4	0
FY'88	2	0
FY'89	3	0
FY'90	5	1
FY'91	0	0
Total	17	1

Note that FY'91 numbers reflect data only through the end of the first quarter.

RIGHT TO KNOW

SENATOR LAUTENBERG: Please compare the FY 1991 appropriation for Right to Know by EPA Office and by Appropriations account to the FY 1992 request. Please provide explanations for decreases if any.

ANSWER: The Office of Solid Waste and Emergency Response (OSWER) request for FY 1992 from the Salaries and Expenses appropriation for Title III is $3,208,300. The FY 1991 Salaries and Expenses Appropriation was $2,801,900. This represents an increase of $406,400. The FY 1992 President's request from the Abatement Control and Compliance Appropriation is $2,938,000. The FY 1991 AC&C appropriation is $4,438,000. This represents a decrease of $1,500,000. The decrease comes primarily from the area of emergency planning in which resources for the State grant program are not requested in the FY 1992 President's budget.

The Office of Research and Development (ORD) is budgeting 1.5 workyears, $0.1 million of S&E, and $0.5 million of R&D for Title III research in FY 1991. The President's budget is requesting 1.5 workyears, $0.1 million of S&E, and $0.5 million of R&D in FY 1992.

The Office of Enforcement (OE) is budgeting 21.5 workyears and $1.3 million of S&E for Title III enforcement in FY 1991, including 2 of the 3.5 workyears added by Congress for enforcement of both Sections 313 and 304. The President's budget is requesting 21.5 workyears and $1.4 million of S&E in FY 1992. The FY 1992 request continues the FY 1991 Congressional add.

The Office of Policy, Planning and Evaluation (OPPE) is budgeting 1.8 workyears, $117 thousand of S&E, and $200 thousand in AC&C for Title III related activities in FY 1991. The President's budget is requesting 1.8 workyears, $129.6 thousand of S&E, and $200 thousand in AC&C in FY 1992. This represents an increase of $12,600 of S&E in FY 1992.

The Office of Administration and Resources Management (OARM) is budgeting 2.7 workyears and $1.5 million of S&E for Title III in FY 1991. For FY 1992, the President's budget is requesting the same resources.

The Office of Pesticides and Toxic Substances (OPTS): The original FY 1991 figures were understated by 15.4 workyears and $789,200 (S&E) because the President's Budget request did not include pending reprogramming requests. This change was approved February 22, 1991 and now reflects a total of 101.6 workyears, $5.8 million of S&E, and $14.8 million in AC&C in FY 1991. The FY 1992 reprogrammings are pending Congressional action. The President's Budget is requesting 89.2 workyears, $5.4 million of S&E, and $17.3 million of AC&C for FY 1992.

SENATOR LAUTENBERG: What is the projected date for release to the public of the 1989 TRI data?

ANSWER: The official data release will occur on or around April 30, 1991.

SENATOR LAUTENBERG: How many months does EPA project will have passed from the reporting deadline to the first such public release? How does the projected processing duration for this year compare to each of the previous years?

ANSWER: Approximately 9 months passed between the statutory deadline for receipt of the data (July 1) and the completion of all data entry, reentry of forms subject to Notices of Non-compliance or Notices of Technical Error, and extensive data quality checks. The timing of the release is comparable to previous years. Processing this year has been complicated by the receipt of 1,000 voluntary resubmissions since January 1991.

SENATOR LAUTENBERG: Does EPA project an increase in the number of forms to be received and processed during the next Toxic Release Inventory (TRI) reporting cycle? If so, please indicate what the increase would be, (also indicate the number of additional facilities) and describe how the budget request responds to this increase both in terms of processing forms and in enforcement obligations.

ANSWER: EPA projects an increase in receipt and processing of approximately 5,000 forms from a total of approximately 1,000 more facilities. EPA has factored increases into both the forms processing and compliance budgets to cover the increased number of forms.

SENATOR LAUTENBERG: Please describe how Abatement Control and Compliance Funds (AC&C) have been or will be used in each of the fiscal years of Title III's implementation (from inception and including FY 1991 and FY 1992 projections) to assist states implementation efforts. Describe the amounts allocated, if any, to each state recipient by year. Please indicate if such allocations are assumed in the President's FY 1992 budget.

ANSWER:

OSWER

1987 - $3,436,500 *

The Office of Solid Waste and Emergency Response's initial goals in implementing the Title III program in 1987 were to: 1) meet Congressionally mandated deadlines required in the legislation; 2) assist States and local governments in establishing the Title III structure; and 3) provide States and localities with training and technical assistance programs required to implement the emergency planning provisions of the program.

To accomplish these goals extramural support was enlisted to provide the Agency assistance in meeting all statutory deadlines including four regulations, issuing the National Response Team's Hazardous Materials Emergency Planning Guide, developing with FEMA and DOT, the technical guidance document for hazards analysis and completing the Section 305(b) Interim Report to Congress. In addition, extramural support was utilized to assist EPA in developing training courses and workshops for State and local officials to provide technical assistance in the areas of planning, hazards analysis, exercising plans and information management.

Extramural monies were also utilized to: 1) enter into an agreement with the American Association of Retired Persons to enhance regional office capabilities in providing states assistance in implementing Title III; 2) establish a Community Right-to-Know Hotline to assist states, LEPCs and the regulated community in implementing Title III; and 3) provide funding to the National Governor's Association to support NGA efforts to work with Governors and States to initiate Title III, produce a yearly report documenting the status of Title III programs, and host technical exchange workshops; as well as an annual national conference on state Title III activities.

* Records show Intramural and Extramural resources combined in 1987.

1988 - $2,147,800

In 1988 the Office of Solid Waste and Emergency Response concentrated on providing assistance to LEPCs in formulating their emergency response plans. In doing so, AC&C funds were utilized to assist program staff in developing and presenting training courses and workshops for State and local officials. The courses equipped officials with the tools to provide technical assistance in emergency planning, hazards analysis, exercising plans, information management and risk communication.

The program also developed, produced and distributed guidance documents and technical assistance bulletins for SERC's and LEPC's to help them implement Title III.

An agreement with NOAA was initiated to expand the Computer Aided Management of Emergency Operations (CAMEO) software system to assist LEPC's with emergency planning. In addition, five national information management workshops were held to assist SERCs and LEPCs in their efforts to manage the large volume of reports they receive from reporting facilities.

AC&C funds assisted staff in developing the Title III trade secret regulation, community right-to-know requirements, drafting Indian policy, and revising the list of extremely hazardous substances. The 305b study was completed and a report submitted to Congress.

The program also continued to provide a significant level of extramural support for the Title III Hotline, the Cooperative Agreement with American Association of Retired Persons and the National Governor's Association Title III state implementation program.

1989 - $1,923,700

In 1989 the program continued to focus on assisting SERC's and LEPC's in formulating their emergency response plans, as well as providing guidance and assistance to communities in carrying out implementation activities. The program utilized AC&C funds to assist staff in conducting training courses and workshops on emergency planning technical assistance. OSWER also developed (with FEMA and DOT) for SERC's and LEPC's the Handbook of Chemical Hazard

Analysis Procedures which expands the Technical Guidance on Hazards Analysis document to broaden the basis for technical aspects of emergency planning, including addressing explosives and flammables.

OSWER initiated the Successful Practices Technical Assistance Bulletins in 1989 and produced three issues. These bulletins provide SERC's, LEPC's, fire departments, and other Title III implementing agencies examples of Title III programs and practices that are innovative or have proven to be effective.

The program also prepared a technical assistance bulletin on Tort Liability in emergency Planning and produced and distributed a booklet for citizens entitled Chemicals in Your Community, a Guide to the Emergency Planning and Community Right-to-Know Act. In addition, a program was initiated to involve the medical community in the Title III emergency planning process.

Support was continued to expand the Computer Aided Emergency Operations (CAMEO) to better meet the requirements under Title III record keeping and information management capabilities.

AC&C monies were also used to assist EPA in proposing regulations for implementing various sections of Title III. Among those were: 1) rules for implementing Title III on Indian lands; 2) two rules concerning the designation of Extremely Hazardous Substances as CERCLA hazardous substances and adjusting their Reportable Quantities; and 3) a proposed rule, followed by an interim final rule, on the Community Right-to-Know threshold requirements. The program also evaluated additional hazard criteria for the extremely hazardous substances list.

A significant level of extramural funding continued to support the Title III Hotline, the American Association of Retired Persons program and the National Governor's Association state Title III program.

1990 - $4,733,000

Since most of the Local Emergency Planning Committees completed their initial emergency response planning in 1989, the program began focusing on providing SERCs and LEPCs with guidance, technical assistance and training to review, test and update their plans.

Responding to a Congressional directive to increase technical assistance provided to states in the area of emergency planning, OSWER implemented an emergency planning initiative that provided assistance to states and local communities to strengthen the capabilities and operation of LEPCs. This program provided funding directly to states and Indian Tribes to develop projects in such areas as hazards analysis, emergency plan testing, information management, enforcement/compliance and risk communication. (See attached list for amounts allocated by OSWER to each state and Indian Tribe.)

Funding continued to support Headquarters and Regional staff in conducting training courses and workshops on emergency planning for states and local governments, as well as providing guidance documents; i.e. the NRT's Hazardous Materials Exercise Program -- A Handbook for State and Local Officials. An Advisory was also prepared and distributed to LEPC's on chlorine in swimming pools to alert owners and operators to the hazards associated with storing and handling swimming pool chemicals. Three Successful Practices technical assistance bulletins were also prepared and distributed to SERC's and LEPCs.

The program initiated two projects with the International City Management Association to enhance implementation of Title III at the local level: 1) the Peer Exchange Program to improve cooperation and communication between LEPCs and local governments; and 2) the Survey of Local Governments on the activities of LEPCs to assist in measuring the effectiveness of Title III implementation.

Expansion of the Computer Aided Management of Emergency Operations (CAMEO) software system was completed to help state and local communities manage Title III information. Responding to the high level of interest on the part of state and local governments that did not have access to MacIntosh computers, work began on development of the IBM/DOS version. In addition, plans were initiated to prepare for a nation wide CAMEO users workshop in 1991.

The program also funded production of two videos on Title III for state and local officials and the public: "Emergency Planning and the Community Right-to-Know Act - What It Means To You" (produced with OPTS) and "Emergency Planning and Community Right-to-Know: A Framework for Action".

AC&C funds were used to assist program staff in finalizing regulations for implementing the Title III Indian program and established reporting threshold quantities for the community right-to-know sections of the law. An advance notice of proposed rulemaking (ANPR) to establish criteria for adding chemicals to the extremely hazardous substances list was also published.

The program continued major funding for the Title III Hotline, American Association of Retired Persons program and the National Governor's Association state Title III implementation program.

1991 - $4,438,000

While most of the designated planning districts have submitted their initial emergency response plans, they are in varying stages of the implementation process. Using AC&C support, EPA is continuing to provide states and local communities training courses and workshops on emergency planning to cover such areas as hazardous analysis, conducting exercises, information management and risk communication.

OSWER is again implementing the emergency planning initiative it began in FY 1990. The program provides direct funding to states and Indian Tribes to develop projects in the area of emergency planning. Results of these projects will serve as a model for use by other states and LEPCs in implementing Title III. A notice announcing the availability of funds was published in the Federal Register on March 21, 1991. (Note: Resources for this program were not requested in the FY 1992 President's budget.)

The program is initiating a new "Making it Work" technical assistance bulletin series for SERCs, LEPCs and fire departments. The bulletin is designed to provide technical assistance on specific features of Title III implementation. OSWER is also continuing the Successful Practices series and plan to publish a second Advisory to alert LEPCs, responders and the local community on the hazards associated with ammonia.

Along with NOAA, EPA held a national workshop on CAMEO in January that was attended by 600 representatives of Federal, state and local governments and industry. The conference introduced a new, expanded version of CAMEO for IBM/DOS to support the emergency planning and community right-to-know provisions of Title III, and provided hands-on training opportunities to attendees on both CAMEO systems.

AC&C resources are being used to support staff evaluation of chemicals against the criteria of the extremely hazardous substances. Two petitions to delete chemicals form the list are currently being reviewed. The program is also continuing work on possible additions to the EHS list based upon the physical hazards posed by a chemical and long-term health effects from a short-term exposure.

OSWER is increasing funding for the American Association of Retired Persons program to enhance support to the regions and states for Title III implementation. Support is continuing for the Title III Hotline, the National Governor's Association State

Title III implementation program and the International City Management Association Title III local enhancement program.

1992 - $2,938,000

In 1992, the program will continue to focus on building the infrastructure of state and local governments to assist in their efforts to implement Title III. AC&C support will continue to provide state and local government officials training courses and workshops on emergency planning. Some limited extramural support may be made available to states to implement Title III activities.

The technical assistance bulletin series -- "Making it Work", Successful Practices" and Advisories" will continue to be produced and distributed to SERCs, LEPCs and emergency responders.

The CAMEO/DOS and MacIntosh systems will be refined to address the needs of users who manage Title III information. Support will also be provided for: 1) developing additional information for the CAMEO chemical data base; 2) upgrading the Title III consolidated list of hazardous and extremely substances and 3) maintaining the Section 302 chemical profiles data base.

AC&C resources will continue to be used to support staff evaluation of chemicals against the criteria of the extremely hazardous substances list. OSWER is working on a proposed rule on flammables and explosives. The program will continue work on possible additions to the EHS list based upon the physical hazards posed by a chemical and long-term health effects from a short-term exposure.

A significant level of funding will continue for the American Association of Retired Persons program, the Title III Hotline and the National Governor's Association Title III State implementation program. Funding will also continue for the International City Management Association Title III local enhancement program.

OPPE

The Office of Planning, Policy and Evaluation's Title III AC&C funds are not used for state implementation efforts. Rather, they are used for policy and regulatory oversight of, and assistance to OPTS with, the Title III program.

OPTS

The Office of Pesticides and Toxic Substances has provided grants to states for the Toxic Release Inventory (TRI) implementation projects beginning in FY 1989 ($180,000), in FY 1990 ($1,000,000) and continuing through FY 1991 at a similar level. OPTS is requesting continuation of this grant program in FY 1992 with a request of $1,100,000. A detailed description of funds provided through this grant program to various states is provided below.

1989 - $244,256

In FY 1989 $180,000 was made available to the states through the National Governors Association (NGA) for projects involving TRI data quality activities. Four grants of $45,000 each were awarded to Utah, Massachusetts, Rhode Island, and Illinois.

Also in FY 1989 OPTS awarded to the State of New York a grant of $64,256 to evaluate the integration of the state's TRI data into a geographic information system. This grant was made from the Regional Special Projects fund which was used to fund a number of special projects in a variety of pesticides and toxic substances areas.

1990 - $1,035,000

In FY 1990 the Office of Toxic Substances (OTS) awarded $1.0 million to 11 states for development and implementation of TRI data quality assurance programs. The funded projects focus on one or more broad data quality assurance objectives: 1) verification of the accuracy of chemical emissions estimates and other data submitted by facilities, 2) identification of facilities that should have reported but did not, and 3) identification of discrepancies between TRI data reported to EPA and TRI data reported to the state.

The State of New Hampshire received $35,000 from the Regional Special Projects fund for a demonstration project to use the TRI data to evaluate health risks from pollutants released from industrial sources.

1991 - $900,000

In FY 1991, OTS will provide $800,000 for TRI State Grants, probably in a wider variety of project areas such as data use and analysis, risk screening, outreach and promotion of data use, etc. A Federal Register notice providing details is expected to be published March 8, 1991.

The Office of Compliance Monitoring (OCM) will award $100,000 in TRI enforcement grants to states in FY 1991. Guidance on what types of proposals are desired, what criteria will be used to judge them, etc. is not yet available but should be ready in the near future.

1992 - $1,100,000

The OCM includes $100,000 for state TRI enforcement grants in the FY 1992 request. Information on the FY 1992 grants will be contained in the FY 1992 TSCA Grant/Cooperative Agreement Guidance document.

The FY 1992 budget request contains $1.0 million for state grants. These resources will maintain state TRI data quality/data use grant program at present levels.

GRANTS AWARDED FOR STATE EPCRA ACTIVITIES

State	TRI NGA FY89	Regional Spec. Proj. FY89/90	TRI Data Quality FY90
CT			$97,703
ME			
MA	$45,000		
NH		$35,000	
RI	$45,000		
VT			
NJ			
NY		$64,256	
PR.			
VI +			
DE			
D.C.			
MD			$100,000
PA			
VA			
WVA			
AL			
FL			
GA			
KY			$91,125
MS			
NC			$131,550
SC			
TN			
IL	$45,000		
IN			
MI			
MN			$111,757
OH			$92,516
WI			
AR			
LA			$97,819
NM			
OK			
TX			

IA KS MO NE			$24,285 $100,000
CO MO ND SD UT WY	$45,000		$96,620
AZ CA HI NV Am S.* Guam			$56,624
AK ID OR WA			

+Virgin Islands
*American Samoa

OSWER FY 1990
Emergency Planning Initiative

Massachusetts	$113,714	Computerize Resource Inventories of Section 311/312 data
Puerto Rico	$65,000	Hazards Analysis help for LEPCs
Delaware	$75,000	Enhance Information Management capability using CAMEO II-DOS
Kentucky	$50,000	Enhance LEPC Outreach efforts to encourage compliance with 311/312
Wisconsin	$71,798	Enhance SERC and LEPC compliance and enforcement programs
Texas	$75,000	LEPC conferences; JRT workshops; SERC/LEPC joint projects

Missouri	$37,500	Enhance LEPCs located in high risk areas;LEPC outreach material
Utah	$50,000	LEPC restructure and planning assistance teams
Hawaii	$73,540	Public education using CAMEO
Idaho	$30,700	Hazards Analysis and technical assistance to LEPCs
Pueblo De Acoma, NM	$98,949	Develop, test, and implement a prep. and prev. program and plan
New Jersey	$97,000	Public access computerized database
Pennsylvania	$90,040	School project for right-to-know and community awareness
South Carolina	$3,352	Computerized 312 information for LEPC use
Minnesota	$57,000	Public information/education program
Kansas	$85,595	Computerized system for assisting LEPCs with T3 compliance
Nevada	$35,883	Computerized system for assisting in hazmat response and planning
Fort Peck, MT	$37,079	Indian Tribe Title III guidance document
Shoshone Bannock, ID	$49,924	SERC enhancement/LEPC startup
District of Columbia	$20,200	Public Outreach Materials
TOTAL	$1,217,274	

SENATOR LAUTENBERG: Please indicate by EPA Office and Appropriations accounts what EPA requested from OMB for Title III, and how such requests compared to the President's FY 1992 budget request.

ANSWER: The Office of Solid Waste and Emergency Response's (OSWER) FY 1992 OMB request for Title III was $3.7 million from the Salaries and Expenses (S&E) appropriation to support 51 workyears and $4.2 million from the Abatement, Control and Compliance (AC&C) appropriation. The President's Budget request is $3.2 million of S&E to support 44.5 workyears and $2.9 million of AC&C.

The Office of Research and Development (ORD) requested 1.5 workyears, $0.1 million of S&E, and $0.5 million of R&D for Title III research from OMB. The President's FY 92 budget includes the same resources.

The Office of Enforcement (OE) requested 28.5 workyears and $1.9 million of S&E for Title III enforcement from OMB. The President's FY 92 budget includes 21.5 workyears and $1.4 million of S&E.

The Office of Planning, Policy and Evaluation's (OPPE) OMB request was for the same level of funding as in the President's Budget, described above.

The Office of Administration and Resource Management (OARM) did not request any additional resources for FY 1992. The amount for which OARM has requested in FY 1992 is from the base program.

The Office of Pesticides and Toxic Substances' (OPTS) FY 1992 request for Title III was $5.4 million of S&E to support 89.2 workyears, and $17.3 million of AC&C. OPTS's FY 1992 OMB request was $8.2 million of S&E to support 129.6 workyears, and $16.1 million of AC&C.

TITLE III - SECTION 313

SENATOR LAUTENBERG: How many and which substances have been added or deleted from the section 313 list since the beginning of the Title III program?

ANSWER: Below is the latest information as of March 25,1991, from the Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313 List of Toxic Substance.

Sixteen chemicals have been added to the EPCRA Section 313 List of Toxic Substances.

Those that are reportable in the 1990 reporting year and beyond are:

CAS No.	Name
78-88-6	2,3-Dichloropropene
99-65-0	m-Dinitrobenzene
100-25-4	p-Dinitrobenzene
107-18-6	Allyl alcohol
120-58-1	Isosafrole
528-29-0	o-Dinitrobenzene
8001-58-9	Creosote
25321-14-6	Dinitrotoluene (mixed isomers)
26471-62-5	Toluenediisocyanate (mixed isomers)

Those that are reportable in the 1991 reporting year and beyond are:

CAS No.	Name
75-63-8	Bromotrifluoromethane (Halon 1301)
75-69-4	Trichlorofluoromethane (CFC-11)
75-71-8	Dichlorodifluoromethane (CFC-12)
76-14-2	Dichlorotetrafluoroethane (CFC-114)
76-15-3	(Mono)chloropentafluoroethane (CFC-115)
124-73-2	Dibromotetrafluoroethane (Halon 2402)
353-59-3	Bromochlorodifluoromethane (Halon 1211)

Chemicals that have been deleted from the EPCRA Section 313 List of Toxic Substances (seven deletions and one modification) are:

CAS No.	Name
13463-67-7	Titanium dioxide
2650-18-2	Acid Blue 9, diaamonium salt
3844-45-9	Acid Blue 9, disodium salt
108-78-1	Melamine
7757-82-6	Sodium sulfate (solution)
1310-73-2	Sodium hydroxide (solution)
1344-28-1*	Aluminum oxide (non-fibrous forms)*
100-21-0	Terephthalic acid

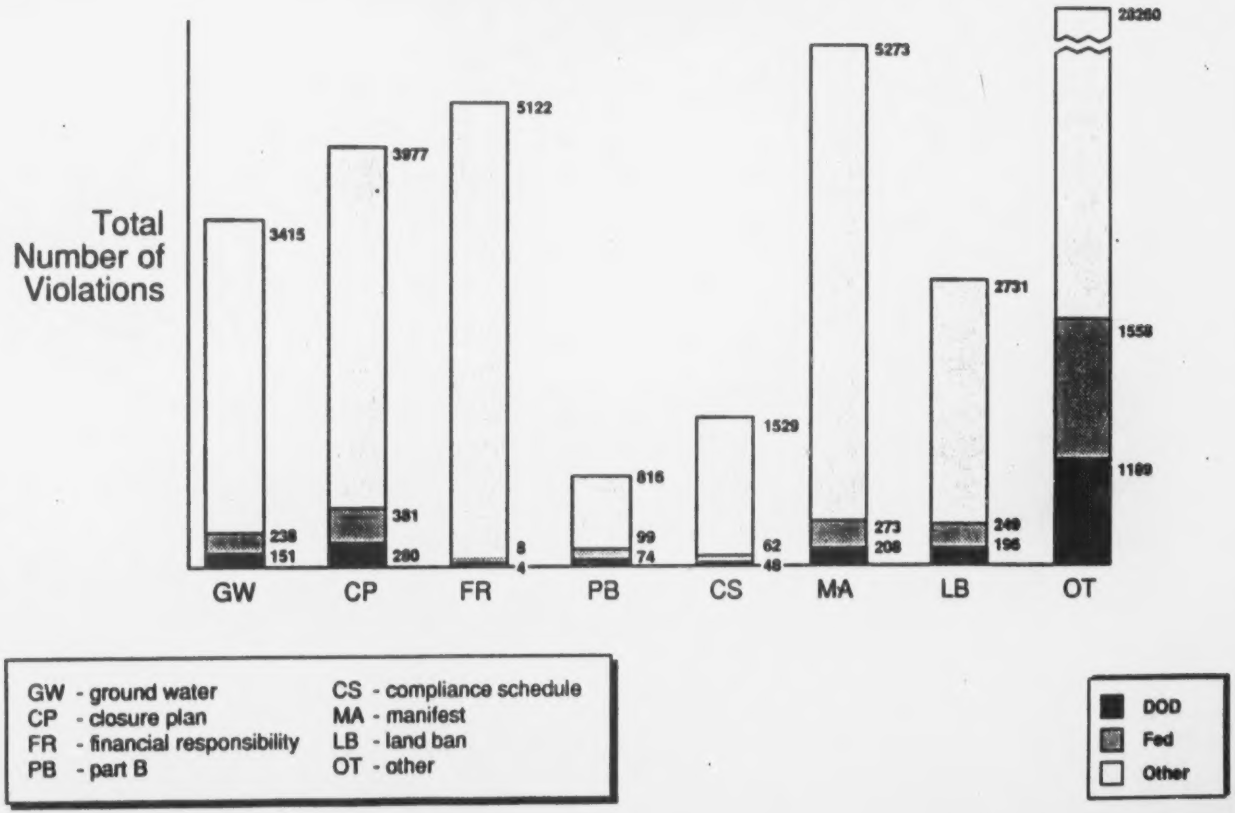
*Fibrous forms are still listed under EPCRA section 313.

FEDERAL FACILITIES

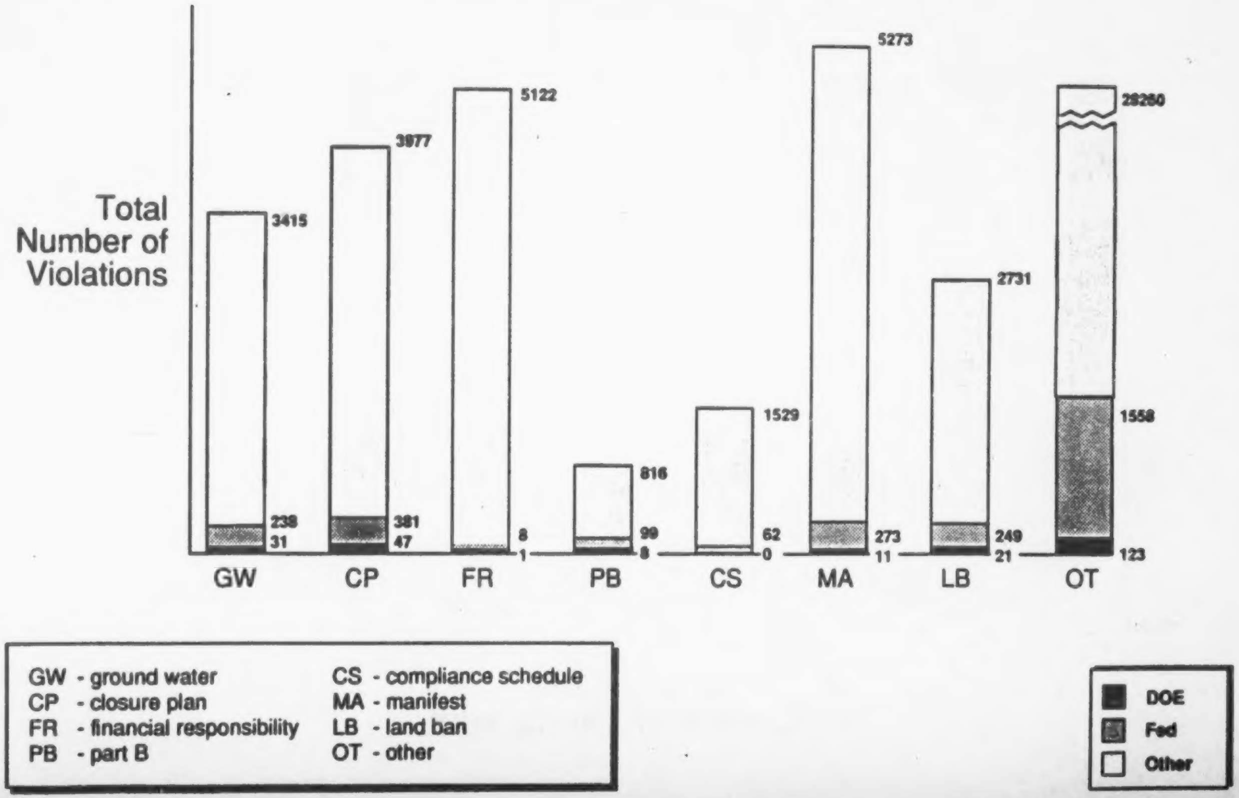
SENATOR LAUTENBURG: How Many Federal facilities does EPA classify as being in significant noncompliance with RCRA. Please identify each such facility by state, with a brief description of the compliance problems.

ANSWER: In FY 1990, EPA and authorized states inspected 329 of the 348 Federal treatment storage, or disposal facilities (TSD's). As a result of these inspections, 184 facilities were found to have Class 1 violations which is the measure used by the Federal Facility program to identify facilities which are in significant noncompliance with RCRA. This resulted in a 44% compliance rate. By comparison, at 4801 non-Federal TSD's, the compliance rate was 55%. While detailed site-specific information on the nature of violations is not available from Agency databases, the frequency with which general categories of violations occurs is available. The attached table describes the frequency of Class I violations at both private and Federal facilities.

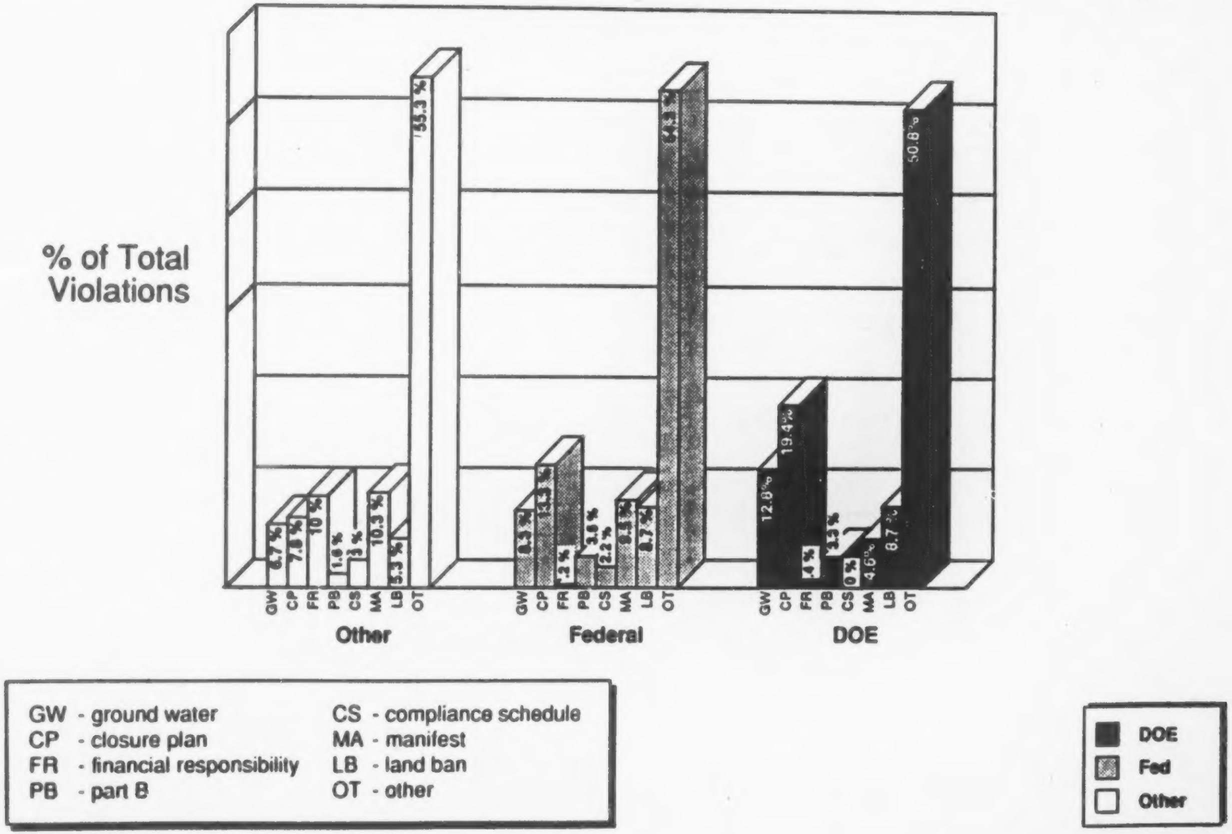
RCRA Class I Violation Types
(since 10/1/82)



RCRA Class I Violation Types
(since 10/1/82)

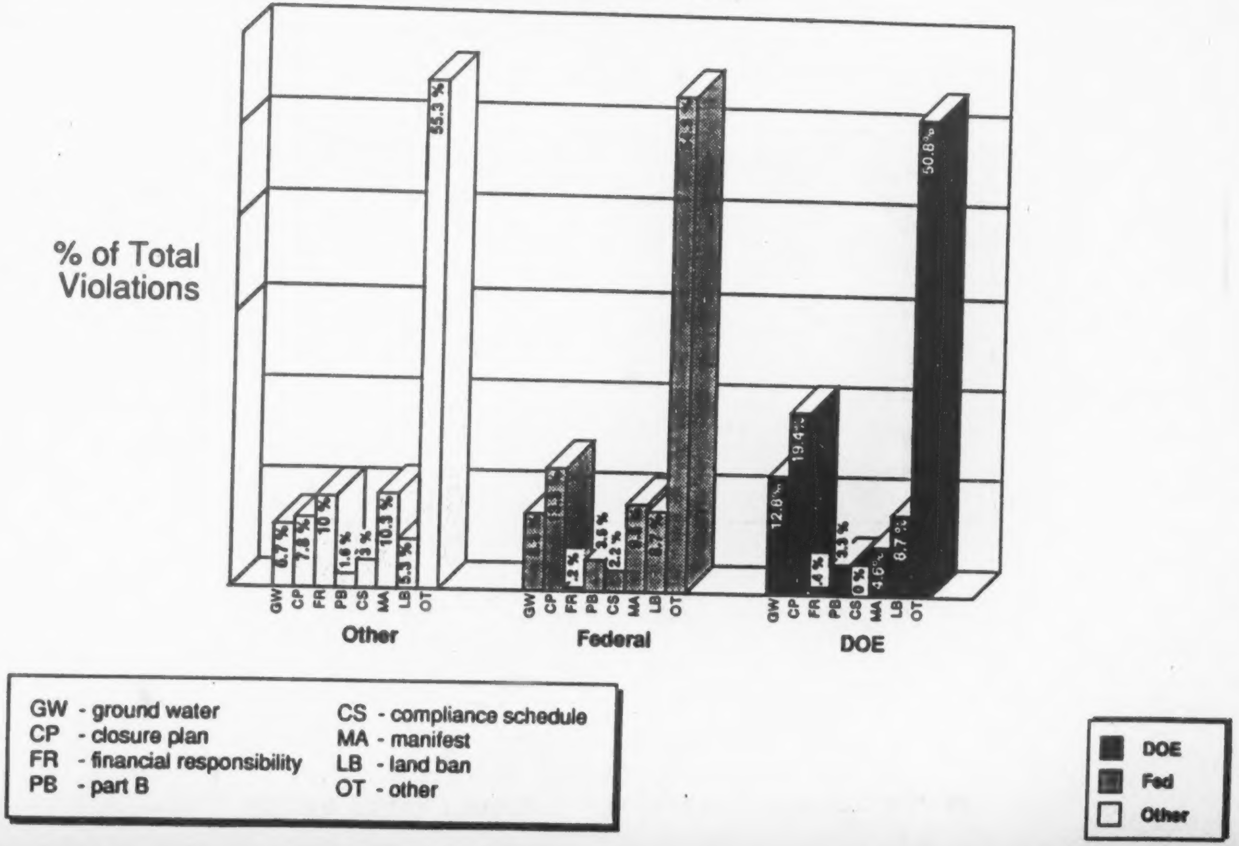


RCRA Class I Violation Types as a Percentage of Total Class I Violations
(since 10/1/82)



GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

RCRA Class I Violation Types as a Percentage of Total Class I Violations
(since 10/1/82)



FEDERAL FACILITIES

SENATOR LAUTENBURG: Based on the most recent inspections (please identify the year in question) please indicate what percentage of inspected facilities that had RCRA violations. Please compare this percentage for that year to that for private facilities. Also provide the raw numbers of facilities inspected and facilities having violations by state. Provide all such percentages and numbers for the previous five years, as well as such state-by-state information.

ANSWER: The compliance statistics requested as well as the state-by-state analysis is attached.

OE/OFFE
RCRA DATA BY HANDLER TYPE
20-Mar-91
9:09 AM

		[illegible]	Generator	Transporter	Other	Total
FY88	Total Universe					
	Total Inspections	3,818	10,418	278	943	15,457
	Total Violations (Class I only)	1,654	2,534	64	186	4,438
	Fed Fac Universe					
	Fed Fac Inspections	325	150	2	12	489
	Fed Fac Violations (Class I only)	205	40	1	2	248
	% Universe					
	% Inspections	9%	1%	1%	1%	3%
	% Violations (Class I only)	12%	2%	2%	1%	6%
	Total Compl. Rate	57%	76%	77%	80%	71%
	Fed Fac Compl. Rate	37%	73%	50%	83%	49%
FY89	Total Universe					
	Total Inspections	3,833	9,463	254	862	14,412
	Total Violations (Class I only)	1,705	2,868	59	170	4,802
	Fed Fac Universe					
	Fed Fac Inspections	317	119	1	15	452
	Fed Fac Violations (Class I only)	193	43	0	0	236
	% Universe					
	% Inspections	8%	1%	0.4%	2%	3%
	% Violations	11%	1%	0%	0.0%	5%
	Total Compl. Rate	56%	70%	77%	80%	67%
	Fed Fac Compl. Rate	39%	64%	100%	100%	48%
FY90	Total Universe	5,149	282,995	10,645	37,009	335,798
	Total Inspections	3,674	9,397	224	942	14,237
	Total Violations (Class I only)	1,662	2,715	64	177	4,618
	Fed Fac Universe	348	4,610	55	281	5,294
	Fed Fac Inspections	329	202	2	17	550
	Fed Fac Violations (Class I only)	184	49	1	1	235
	% Universe	7%	2%	1%	1%	2%
	% Inspections	9%	2%	1%	2%	4%
	% Violations (Class I only)	11%	2%	2%	1%	5%
	Total Compl. Rate	55%	71%	71%	81%	68%
	Fed Fac Compl. Rate	44%	76%	50%	94%	57%

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RCRA DATA BY HANDLER TYPE
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	Total Universe					
	Total Inspections	3,846	9,634	487	1,097	15,064
	Total Violations	1,700	2,644	95	291	4,730
	(Class I only)					
	Fed Fac Universe					
	Fed Fac Inspections	322	132	2	12	468
	Fed Fac Violations	165	46	1	2	214
	(Class I only)					
	% Universe					
	% Inspections	9%	1%	0%	1%	3%
	% Violations	10%	2%	1%	1%	5%
	(Class I only)					
	Total Compl. Rate	53%	73%	80%	73%	69%
	Fed Fac Compl. Rate	49%	65%	50%	83%	54%
	Total Universe					
	Total Inspections	3,700	10,824	416	948	15,888
	Total Violations	1,589	2,697	76	236	4,598
	(Class I only)					
	Fed Fac Universe					
	Fed Fac Inspections	321	131	1	7	460
	Fed Fac Violations	175	22	1	1	199
	(Class I only)					
	% Universe					
	% Inspections	9%	1%	0.2%	1%	3%
	% Violations	11%	1%	1%	0.4%	4%
	(Class I only)					
	Total Compl. Rate	57%	75%	82%	75%	71%
	Fed Fac Compl. Rate	45%	83%	0%	86%	57%

Number of FY90
Federal Facility Inspections and Violations by State/Territory

		Class I Violations								Violations Total
	Inspections	GW	CP	FR	PB	CS	MA	LB	OT	
Region 1										
CT	5		1				3	2	3	9
MA	5								1	1
ME	7		1						3	4
NH	2						1		1	2
RI	1								1	1
Subtotal	20	0	2	0	0	0	4	2	9	17
Region 2		GW	CP	FR	PB	CS	MA	LB	OT	
NJ	48					5	3		6	14
NY	95						1		8	9
PR	9								1	1
VI	1									0
Subtotal	153	0	0	0	0	5	4	0	15	24
Region 3		GW	CP	FR	PB	CS	MA	LB	OT	
DC	30						6	7	11	24
DE	4									0
MD	31							3	3	6
PA	24		1						3	4
VA	50	3	11		1		2	5	13	35
WV	3									0
Subtotal	142	3	12	0	1	0	8	15	30	69
Region 4		GW	CP	FR	PB	CS	MA	LB	OT	
AL	25	2			1		1	5	12	21
FL	68	1			3		1	1	12	18
GA	26	2	2					2	10	16
KY	31	1	1		1	1	1		3	8
NC	30									0
SC	58	1	4		1	0	6	9	18	39
TN	52								4	4
Subtotal	290	7	7	0	6	1	9	17	59	106
Region 5		GW	CP	FR	PB	CS	MA	LB	OT	
IL	21		1	1				2	8	12
IN	21						1	3	4	8
MI	31						3	1	10	14
MN	14						1		3	4

GW - ground water	CS - compliance schedule
CP - closure plan	MA - manifest
FR - financial responsibility	LB - land ban
PB - part B	OT - other

OH	32	1	2				1	1	11	16
WI	7								1	1
Subtotal	126	1	3	1	0	0	6	7	37	55
Region 6		GW	CP	FR	PB	CS	MA	LB	OT	
AR	6						1	2	3	6
LA	12	1	1				1		5	8
NM	22	3			1	1	2	4	7	18
OK	10		1				1		2	4
TX	48	4				1	1	2	14	22
Subtotal	98	8	2	0	1	2	6	8	31	58
Region 7		GW	CP	FR	PB	CS	MA	LB	OT	
IA	3									0
KS	13						1	2	3	6
MO	14								3	3
NE	2								1	1
Subtotal	32	0	0	0	0	0	1	2	7	10
Region 8		GW	CP	FR	PB	CS	MA	LB	OT	
CO	38	2					1		3	6
MT	21						1	1	1	3
ND	5									0
SD	6								2	2
UT	9				1		1	1	2	5
WY	5								1	1
Subtotal	84	2	0	0	1	0	3	2	9	17
Region 9		GW	CP	FR	PB	CS	MA	LB	OT	
AZ	14								11	11
CA	52		1		1		4	13	31	50
GU	15				1		4	5	7	17
HI	7						2	4	5	11
NV	4									0
TT	2									0
Subtotal	94	0	1	0	2	0	10	22	54	89
Region 10		GW	CP	FR	PB	CS	MA	LB	OT	
AK	12	1	2			1		1	4	9
ID	20									0
OR	1							1		1
WA	15						2	1	10	13
Subtotal	48	1	2	0	0	1	2	3	14	23

Grand Total	1087	22	29	1	11	9	53	78	265	468

GW - ground water	CS - compliance schedule
CP - closure plan	MA - manifest
FR - financial responsibility	LB - land ban
PB - part B	OT - other

Number of FY89
Federal Facility Inspections and Violations by State/Territory

		Class I Violations								Violations Total
	Inspections	GW	CP	FR	PB	CS	MA	LB	OT	
Region 1										
CT	4									0
MA	4									0
ME	3								1	1
NH										0
RI	3								2	2
Subtotal	14	0	0	0	0	0	0	0	3	3
Region 2		GW	CP	FR	PB	CS	MA	LB	OT	
NJ	23						2	2	7	11
NY	29						2	1	6	9
PR	11								1	1
VI										0
Subtotal	63	0	0	0	0	0	4	3	14	21
Region 3		GW	CP	FR	PB	CS	MA	LB	OT	
DC	19									0
DE	3	1	1							2
MD	60							1	10	11
PA	29	1			1		1	3	4	10
VA	41		5				3	1	10	19
WV	7									0
Subtotal	159	2	6	0	1	0	4	5	24	42
Region 4		GW	CP	FR	PB	CS	MA	LB	OT	
AL	26	1					4	7	7	19
FL	83	1			4		2	4	20	31
GA	38	2				1		2	2	7
KY	37					1	1	2	2	6
NC	30	1	1		1			5	4	12
SC	24		2					3	10	15
TN	55							1	6	7
Subtotal	293	5	3	0	5	2	7	24	51	97
Region 5		GW	CP	FR	PB	CS	MA	LB	OT	
IL	13		1				1	3	4	9
IN	7	1						2	3	6
MI	7							1	4	5
MN	8							1	2	3

GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

OH	37	1	2				4	7	10	24
WI	9						1	1	2	4
Subtotal	81	2	3	0	0	0	6	15	25	51
Region 6		GW	CP	FR	PB	CS	MA	LB	OT	
AR	8								2	2
LA	14								2	2
NM	27	3	3				2		5	13
OK	30		1				1		6	8
TX	59	2	3			1	4	2	20	32
Subtotal	138	5	7	0	0	1	7	2	35	57
Region 7		GW	CP	FR	PB	CS	MA	LB	OT	
IA	6								1	1
KS	19	1	1	1			1	1	3	8
MO	11	1							1	2
NE	3				1	1			1	3
Subtotal	39	2	1	1	1	1	1	1	6	14
Region 8		GW	CP	FR	PB	CS	MA	LB	OT	
CO	25	3	1					1	4	9
MT	17									0
ND	5									0
SD	3								1	1
UT	10				1		3		5	9
WY	7							1	1	2
Subtotal	67	3	1	0	1	0	3	2	11	21
Region 9		GW	CP	FR	PB	CS	MA	LB	OT	
AZ	12						1	6	10	17
CA	44	1	5		1		6	17	28	58
GU	12						2	3	9	14
HI	10								8	8
NV	8							1	3	4
TT										0
Subtotal	86	1	5	0	1	0	9	27	58	101
Region 10		GW	CP	FR	PB	CS	MA	LB	OT	
AK	17	1	1		1	1	4	7	12	27
ID	47								3	3
OR	2						1	1	2	4
WA	15						2	1	5	8
Subtotal	81	1	1	0	1	1	7	9	22	42

Grand Total	1021	21	27	1	10	5	48	88	249	449

GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

Number of FY88
Federal Facility Inspections and Violations by State/Territory

		Class I Violations								
	Inspections	GW	CP	FR	PB	CS	MA	LB	OT	Violations Total
Region 1										
CT	3		1					2	2	5
MA	13						3	1	4	8
ME	6							1	2	3
NH	2									0
RI	4									0
Subtotal	28	0	1	0	0	0	3	4	8	16
Region 2		GW	CP	FR	PB	CS	MA	LB	OT	
NJ	21					1	1	1	6	9
NY	23						2		4	6
PR	17		1							1
VI										0
Subtotal	61	0	1	0	0	1	3	1	10	16
Region 3		GW	CP	FR	PB	CS	MA	LB	OT	
DC	7									0
DE	2									0
MD	73	2	1						14	17
PA	25						2		3	5
VA	37		11				1		16	28
WV	5									0
Subtotal	149	2	12	0	0	0	3	0	33	50
Region 4		GW	CP	FR	PB	CS	MA	LB	OT	
AL	20	1	1					3	10	15
FL	83				4		4	5	20	33
GA	47					1			3	4
KY	73				1				3	4
NC	26	2	2	1			1		3	9
SC	40		4				3	4	12	23
TN	54						3		17	20
Subtotal	343	3	7	1	5	1	11	12	68	108
Region 5		GW	CP	FR	PB	CS	MA	LB	OT	
IL	19	1	1					1	4	7
IN	8		2				2	1	1	6
MI	8						2	1	2	5
MN	11								5	5

GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

OH	50	1	4				5	4	17	31
WI	9								2	2
Subtotal	105	2	7	0	0	0	9	7	31	56
Region 6		GW	CP	FR	PB	CS	MA	LB	OT	
AR	11		1		1				6	8
LA	25								2	2
NM	27	5	4				1		2	12
OK	27		2						7	9
TX	91	1	7			2	3	3	23	39
Subtotal	181	6	14	0	1	2	4	3	40	70
Region 7		GW	CP	FR	PB	CS	MA	LB	OT	
IA	4								1	1
KS	22	2	2						4	8
MO	11	1							2	3
NE	5						1		1	2
Subtotal	42	3	2	0	0	0	1	0	8	14
Region 8		GW	CP	FR	PB	CS	MA	LB	OT	
CO	28		1				2	1	3	7
MT	20									0
ND	10								1	1
SD	6							1		1
UT	10	1	1		1		2	1	4	10
WY	1									0
Subtotal	75	1	2	0	1	0	4	3	8	19
Region 9		GW	CP	FR	PB	CS	MA	LB	OT	
AZ	19	2	5				3	1	13	24
CA	65	5	14		2		3	14	45	83
GU	23	1	2				3	2	11	19
HI	7									0
NV	12								4	4
TT	1									0
Subtotal	127	8	21	0	2	0	9	17	73	130
Region 10		GW	CP	FR	PB	CS	MA	LB	OT	
AK	22	1	1				4		10	16
ID	25	2	2						4	8
OR	1								1	1
WA	18								3	3
Subtotal	66	3	3	0	0	0	4	0	18	28

Grand Total	1177	28	70	1	9	4	51	47	297	507

GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

Number of FY87
Federal Facility Inspections and Violations by State/Territory

		Class I Violations								Violations Total
	Inspections	GW	CP	FR	PB	CS	MA	LB	OT	
Region 1										
CT	7							3		3
MA	8							1	1	2
ME	4						1	2		3
NH	2									0
RI	4						1	1		2
Subtotal	25	0	0	0	0	0	2	7	1	10
Region 2		GW	CP	FR	PB	CS	MA	LB	OT	
NJ	15	1	3				1	1	4	10
NY	31						3		2	5
PR	5								1	1
VI										0
Subtotal	51	1	3	0	0	0	4	1	7	16
Region 3		GW	CP	FR	PB	CS	MA	LB	OT	
DC	8									0
DE	6	1	1						1	3
MD	24	1			1	1			1	4
PA	42								2	2
VA	40						1		5	6
WV	1									0
Subtotal	121	2	1	0	1	1	1	0	9	15
Region 4		GW	CP	FR	PB	CS	MA	LB	OT	
AL	33	1	4			4	1		8	18
FL	95	3	5		2	1	1		12	24
GA	40	1			1				3	5
KY	44		1		1		1		3	6
NC	24	4	3		1	3	1	2	4	18
SC	51	1			1		2		16	20
TN	59					1	1		5	7
Subtotal	346	10	13	0	6	9	7	2	51	98
Region 5		GW	CP	FR	PB	CS	MA	LB	OT	
IL	22		2					4	8	14
IN	12		1						2	3
MI	8		1				1		4	6
MN	8								2	2

GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

OH	39		3	4			1	2	21	31
WI	8									0
Subtotal	**97**	**0**	**7**	**4**	**0**	**0**	**2**	**6**	**37**	**56**
Region 6		GW	CP	FR	PB	CS	MA	LB	OT	
AR	12		6		1		3		6	16
LA	18		2				7		7	16
NM	24	3	4				1		7	15
OK	16						2		4	6
TX	73	1					4		20	25
Subtotal	**143**	**4**	**12**	**0**	**1**	**0**	**17**	**0**	**44**	**78**
Region 7		GW	CP	FR	PB	CS	MA	LB	OT	
IA	3									0
KS	15								3	3
MO	7	1	1				1		2	5
NE	1						1	1	1	3
Subtotal	**26**	**1**	**1**	**0**	**0**	**0**	**2**	**1**	**6**	**11**
Region 8		GW	CP	FR	PB	CS	MA	LB	OT	
CO	24		1						4	5
MT	14									0
ND	9								1	1
SD	5									0
UT	8									0
WY										0
Subtotal	**60**	**0**	**1**	**0**	**0**	**0**	**0**	**0**	**5**	**6**
Region 9		GW	CP	FR	PB	CS	MA	LB	OT	
AZ	23	1	4		4		4	1	17	31
CA	117	2	8				2	18	37	67
GU	24							2	7	9
HI	8								1	1
NV	15	1		1			1		6	9
TT										0
Subtotal	**187**	**4**	**12**	**1**	**4**	**0**	**7**	**21**	**68**	**117**
Region 10		GW	CP	FR	PB	CS	MA	LB	OT	
AK	12	2	1				2		8	13
ID	5	1	2				1			4
OR	3		1				1			2
WA	21		1				2			3
Subtotal	**41**	**3**	**5**	**0**	**0**	**0**	**6**	**0**	**8**	**22**

Grand Total	1097	25	55	5	12	10	48	38	236	429

GW - ground water	CS - compliance schedule
CP - closure plan	MA - manifest
FR - financial responsibility	LB - land ban
PB - part B	OT - other

Number of FY86
Federal Facility Inspections and Violations by State/Territory

		Class I Violations								
	Inspections	GW	CP	FR	PB	CS	MA	LB	OT	Violations Total
Region 1										
CT	8	2	2						5	9
MA	11								4	4
ME	4		2				1		4	7
NH	2		2						2	4
RI	6								1	1
Subtotal	31	2	6	0	0	0	1	0	16	25
Region 2		GW	CP	FR	PB	CS	MA	LB	OT	
NJ	41	3	2		2		3		4	14
NY	38	1	1				2		1	5
PR	11		1						1	2
VI										0
Subtotal	90	4	4	0	2	0	5	0	6	21
Region 3		GW	CP	FR	PB	CS	MA	LB	OT	
DC	6									0
DE	5									0
MD	72								7	7
PA	19								2	2
VA	47		6						5	11
WV	4									0
Subtotal	153	0	6	0	0	0	0	0	14	20
Region 4		GW	CP	FR	PB	CS	MA	LB	OT	
AL	29	4	3			1	1		4	13
FL	84	2	3		6	1	1		13	26
GA	77				2		1		8	11
KY	42	1	1		1	2			4	9
NC	25	2					2		4	8
SC	60		1		3	1	1		11	17
TN	35		1						4	5
Subtotal	352	9	9	0	12	5	6	0	48	89
Region 5		GW	CP	FR	PB	CS	MA	LB	OT	
IL	24		4						15	19
IN	24	4	3						7	14
MI	6								3	3
MN	8		2						1	3

GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

OH	34	4	9				3		19	35
WI	7								3	3
Subtotal	103	8	18	0	0	0	3	0	48	77
Region 6		GW	CP	FR	PB	CS	MA	LB	OT	
AR	10				1				4	5
LA	17				1				4	5
NM	25	3	2		1				2	8
OK	17					1	2		8	11
TX	60	1	3		1		6	1	11	23
Subtotal	129	4	5	0	4	1	8	1	29	52
Region 7		GW	CP	FR	PB	CS	MA	LB	OT	
IA	10	1	2						2	5
KS	16								4	4
MO	6								2	2
NE	4						1			1
Subtotal	36	1	2	0	0	0	1	0	8	12
Region 8		GW	CP	FR	PB	CS	MA	LB	OT	
CO	34	1					1		4	6
MT	7									0
ND	7									0
SD	6									0
UT	18								1	1
WY	1									0
Subtotal	73	1	0	0	0	0	1	0	5	7
Region 9		GW	CP	FR	PB	CS	MA	LB	OT	
AZ	22	1	4				1		19	25
CA	146	14	18	2	2	1	4		39	80
GU	27								6	6
HI	20						1		3	4
NV	24						1		3	4
TT										0
Subtotal	239	15	22	2	2	1	7	0	70	119
Region 10		GW	CP	FR	PB	CS	MA	LB	OT	
AK	8	1	2				3		3	9
ID	5	1	2				2		2	7
OR	4								1	1
WA	26	3	3						4	10
Subtotal	43	5	7	0	0	0	5	0	10	27

Grand Total	1249	49	79	2	20	7	37	1	254	449

GW - ground water
CP - closure plan
FR - financial responsibility
PB - part B
CS - compliance schedule
MA - manifest
LB - land ban
OT - other

FEDERAL FACILITIES

SENATOR LAUTENBURG: Please indicate for each Federal Facility in New Jersey the status of compliance with RCRA or comparable State and local laws and regulations?

ANSWER: The RCRA compliance profile for all Federal Facilities which were inspected in FY 1990 is attached. EPA does not have additional information on compliance with state and local laws or regulations.

NEW JERSEY FEDERAL FACILITIES DETAIL

FY90 Inspected Sites	# Class I Violations	# NOVs	# Violations back into compliance
Dept. of the Airforce - McGuire AFB	5	1	
FAA Technical Ctr.			
Golda Pew Refinishing	2	1	1
I.T. Corporation			
Ingrassia Const. at USPO Site			
Mid-State Correctional Facility			
Military Ocean Terminal Bayonne	1	1	
Morristown National Historical Park			
Naval Air Engineering Center			
Naval Weapons Station Earle	1	1	1
New York International and Bulk Mail Ctr.			
Newark Redevelopment & Housing Auth.			
Storck US Army Reserve Center			
US EPA Region II E.R. & H.M.I.B.			
US Naval Air Propulsion Ctr.	1	1	
US EPA			
US Army Armament R&D Command			
US Geological Survey, WRD			
US Postal Service			
US Army Comm Electr. Matl. Read Command			
US Army Corps of Engineers			
US Army Training Ctr. & Fort Dix	11	4	1
US EPA Region II	1	1	1
US Postal Service VMF			
USCGC Westwind (WAGB-281)			
US DOE Maywood Interim Storage Site			
US EPA E-TEC Facility			
VA Supply Depot			
Vehicle Maintenance Facility			
VA Medical Center	1	1	
Whaleco Fuel			

TOTAL	23	11	4

NEW JERSEY FEDERAL FACILITIES SUMMARY

	FY90	FY91-to-date
Class I Violations	23	0
# addressed	13	0
# back in compliance	4	0

Enforcement Actions	11 NOVs addressing 13 violations

QUESTIONS SUBMITTED BY SENATOR D'AMATO

GRANTS FOR FIVE COASTAL CITIES

SENATOR D'AMATO: The following questions are all in reference to the $300 million in grants that is being proposed for five coastal cities: New York, Boston, Los Angeles, San Diego, Seattle. How much did EPA request for the revolving loan fund from OMB?

ANSWER: The Agency requested $1.5 billion for SRF funding.

SENATOR D'AMATO: Was it your judgement the EPA's request was reasonable and would keep the program on track?

ANSWER: Yes, given the Agency's many competing priorities. The request would enable the Agency to continue to establish the long-term viability of SRF programs and ensure States' ability to provide financial assistance to communities for construction of treatment facilities.

SENATOR D'AMATO: What was the Administration's rationale for requesting $300 million for sewage treatment grants for five coastal cities and how were these cities selected?

ANSWER: The five cities represent unique high priority coastal areas with projects which will relatively quickly result in significant improvements to the quality of coastal waters. Additionally, these cities were cited in a recent National Oceanic and Atmospheric Administration (NOAA) study as having higher levels of chemical contaminants in their bays and estuaries. These grants will complement related coastal efforts, such as the President's Coastal America Initiative.

SENATOR D'AMATO: What environmental benefits do you expect from the expenditure of these funds?

ANSWER: The projects supported by the special grant funds will provide sewage treatment at the required secondary treatment level and thereby improve critical coastal habitats, which is also a goal of the President's Coastal America Initiative.

SENATOR D'AMATO: Is EPA's request inconsistent with the phase-out of the construction grants program?

ANSWER: No. This request is targeted to these critical coastal areas and does not suggest that we intend to continue Title II funding on a broad basis. We will continue to transition to SRF as the primary means of providing financial assistance.

SENATOR D'AMATO: Have these cities received previous amounts of construction grants and SRF funding proportionate to their needs?

ANSWER: States receive allotments through a formula established by Congress based on needs. All five cities have received substantial amounts of federal funds, but they have the largest unmet needs, nationwide, for secondary treatment.

GRANTS FOR FIVE COASTAL CITIES

SENATOR D'AMATO: Are these cities on court ordered compliance schedules?

ANSWER: Boston, New York and Los Angeles are on court ordered schedules; San Diego is in court to establish penalties and compliance schedules; Seattle has had enforcement action taken by the State and is on a compliance schedule.

SENATOR D'AMATO: How does this $300 million grant fit in with EPA's Coastal America Initiative?

ANSWER: The projects support the goals of the Coastal America Initiative. The $300 million in grants is part of the EPA's Construction Grants/State Revolving Loan Fund program and is intended to help the cities in question meet secondary treatment needs in order to protect sensitive coastal habitat. Coastal America, on the other hand, is a broader interagency initiative involving the EPA, the Corps of Engineers, the NOAA, and the Department of Interior. The intent of Coastal America is to use the collective expertise and combined statutory authorities of the participating agencies to undertake interagency projects that address known problems that adversely impact coastal living resources. In particular, the focus is on problems caused by habitat degradation and loss, pollution from nonpoint sources and contaminated sediments.

SENATOR D'AMATO: What are EPA's projections for population growth in coastal areas and what is the projected environmental impact of this growth?

ANSWER: EPA has not developed its own projections for population growth in coastal areas, but instead relies upon the NOAA projections. In particular, NOAA published in April of 1990 a report entitled "50 Years of Population Change along the Nation's Coasts, 1960-2010." this report predicts that by 2010 the Nation's coastal population will increase by almost 60% from what it was in 1960. Almost half of the Nation's population lives in coastal areas and this trend will continue in the future. The report does not go into specifics about the projected environmental impacts of this growth. However, increased coastal populations will undoubtedly lead to increased stress on the nation's coastline. More people means increased development which, if not properly managed, will bring an inevitable increase numerous problems ranging from atmospheric deposition to coastal waters, to increased nonpoint pollution and loss of wetlands.

QUESTIONS SUBMITTED BY SENATOR KERREY

STATUS OF EPSCoR

SENATOR KERREY: Last year, under the research and development account, the committee included $1 million for the Experimental Program to Stimulate Competitive Research (EPSCoR). What is the status of this program?

ANSWER: The Office of Research and Development is currently preparing a solicitation requesting planning grant proposals from the EPSCoR states and territory identified by the National Science Foundation. The solicitation for the research planning grants will be issued in early April 1991. All applications for planning proposals submitted by the EPSCoR participants will be reviewed for merit and funded if approved. The $1 million appropriated in FY 1991 for the EPSCoR program is sufficient to fund all of the approved planning grants applications.

CRITERIA FOR ELIGIBILITY PURPOSES

SENATOR KERREY: Do you intend to use the same criteria that the National Science Foundation and Department of Energy are using for eligibility purposes?

ANSWER: The Office of Research and Development plans on using the identical group of states and territories identified by the National Science Foundation and Department of Energy for eligibility in the Experimental Program to Stimulate Competitive Research (EPSCoR). These include: Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, Wyoming and the Commonwealth of Puerto Rico.

PURPOSE OF FUNDING

SENATOR KERREY: Do you expect the use of $1 million principally for planning purposes?

ANSWER: The Office of Research and Development is using the $1 million appropriated in FY 1991 for the Experimental Program to Stimulate Competitive Research (EPSCoR) to support research planning grants.

FUTURE FUNDING FOR EPSCoR

SENATOR KERREY: What type of follow-on to the $1 million do you think would be compatible with EPA interests and efforts?

ANSWER: The $1 million appropriated in FY 1991 for the Environmental Protection Agency's Experimental Program to Stimulate Competitive Research (EPA/EPSCoR) program will be used to support research planning grants. We feel that there is a need to allow sufficient time to implement all phases of an EPA/EPSCoR program. These phases include the evaluation of the results of the planning grant process, preparation of an EPA research solicitation to eligible EPSCoR participants, research proposal preparation followed by review and funding.

NONPOINT SOURCE POLLUTION STUDY

SENATOR KERREY: Last year's appropriations bill included $1.250 million for a three-state nonpoint source pollution study utilizing LANDSAT and GIS data. I believe the technology and study is very promising. I understand that the Kansas City EPA office has been very supportive. Could you give me a status report on the grant?

ANSWER: The Conference Report accompanying the appropriations bill for Fiscal Year 1991 stated that the tri-state study should be funded under Section 319. While EPA's Region VII office in Kansas City is supportive of the project, there are some technical obstacles to funding it under Section 319, including the requirement in Section 319 for a state 40% match for the Federal dollars and the requirement that Section 319 grants be made only for implementation activities set forth in a State's approved nonpoint source management program.

The grant application for the study has not yet been submitted to Region VII. Our Comptroller's office is currently working with Region VII to develop the best approach for acting positively and expeditiously when the grant application is submitted.

NATIONAL RURAL WATER ASSOCIATION AND NATIONAL RURAL COMMUNITY ASSISTANCE PROGRAM

SENATOR KERREY: Your program justification (4-32) indicates that in fiscal 1991 your are providing $3.7 million to the National Rural Water Association and $700,000 to the National Rural Community Assistance Program. It further indicates that EPA funds 45 independent non profit state associations covering 47 states through agreements with the NRWA and six nonprofit regional rural water community organizations through agreements with the NRCAPs. The justification then indicates that in fiscal 1992 the special studies and demonstration program will continue to provide support for these activities. Could you explain exactly what support will be available and what the dollar amounts will be?

ANSWER: In fiscal 1992 support for the Special Studies and Demonstration program will be $500,000. EPA will continue to fund 45 independent non profit state associations covering 47 states through agreements with the NRWA and the NRCAP affiliates. These activities will include technical assistance in the areas of preventative maintenance, facility operations, management and finance.

NRWA's GROUNDWATER PROTECTION PROGRAM

SENATOR KERREY: Last year's appropriations bill included $1 million to initiate the National Rural Water Association's Groundwater Protection Program. Could you give us a status report on the allocation of these funds and what you expect to be accomplished with them?

ANSWER: EPA approved the National Rural Water Association's (NRWA) grant proposal March on 8, 1991. On March 17, officials from states selected by NRWA for participation in the program (Arkansas, Georgia, Idaho, Iowa, Kentucky, Louisiana, Michigan, Northeast states [MA, NH, VT], Pennsylvania, Utah, West Virginia, Wisconsin) began to receive training on wellhead protection issues. The next step in the process is for officials in these states to develop specific plans for providing technical assistance and training in wellhead protection to economically distress, rural areas within their states.

GROUNDWATER PROTECTION/NEBRASKA

SENATOR KERREY: It was my understanding last year that Nebraska would be one of the 12 states in which the groundwater protection program would operate. Nebraska is not on the list. Why was Nebraska taken off.

ANSWER: While EPA approved the NRWA grant proposal, NRWA established the criteria by which states would be selected and NRWA made the final selection of states for the project. The initial list contained more than the 12 state that were finally selected when the criteria were applied. The criteria were: 1) strength of the state NRWA affiliate and its ability to implement the program, 2) status of the state in the Wellhead Protection Program approval process (NRWA sought a mix of states with approved, about to be approved and not approved programs), and 3) geographic distribution of states. In the judgement of NRWA, the states selected best filled these criteria. The states selected were: Arkansas, Georgia, Idaho, Iowa, Kentucky, Louisiana, Michigan, Northeast states (MA, NH, VT), Pennsylvania, Utah, West Virginia, and Wisconsin.

CLEAN LAKES

SENATOR KERREY: There is again no request for the Clean Lakes Program. Congress last year added $7 million for the program. What is the justification for not requesting funding this year?

ANSWER:In past years, the Agency has provided financial and technical assistance to the States for classifying lakes, identifying the causes and sources of water quality impairments, developing and demonstrating lake restoration techniques, and implementing clean-up and pollution control projects. This program produces primarily local benefits and solves local problems. Because the Agency has provided sufficient guidance to the States on maintaining clean lakes, it believes that the States are now able to address lake restoration needs along with other local priorities under their existing water quality management programs.

SENATOR KERREY: Please explain how the $7 million in fiscal 1991 is being allocated and for what purposes.

ANSWER: The current allocation formula for the Clean Lakes Program is based on a weighting of the following factors: (1) the number of States/Territories in the Region; (2) population; (3) relative impacts of nonpoint source pollution on lakes; (4) the number of Federally recognized Indian Tribes that have completed the treatment as a State process for Section 314 grants; and (5) the number of threatened and impaired lake acres from the State biennial 305(b) reports. Factors (1) and (4) represent the potential number of grantees participating in the Clean Lakes Program and factors (2), (3), and (5) represent the problems associated with lakes and some estimate of need for restoration and protection.

Based on these weighting factors the FY 1991 Clean Lakes appropriation has been distributed to the Regions as follows:

REGION	ALLOCATION ($)
I	398,000
II	423,000
III	478,000
IV	1,016,000
V	1,279,000
VI	669,000
VII	490,000
VIII	690,000
IX	749,000
X	348,000

In addition, $250,000 was set-aside from the allocation to fund Phase III Post-Restoration Monitoring Studies, and 3 percent of the $7 million allocation ($210,000) was set-aside to fund Tribal Clean Lakes projects.

There are four types of projects that may be funded from the Regional allocations including:

(1) Lake Water Quality Assessments to compile more comprehensive assessments of the States lakes, to enhance their overall lake management programs and to increase public awareness and commitment to protecting lakes,

(2) Phase I Diagnostic/Feasibility Studies to perform a comprehensive study of a particular lake, to determine the causes and extent of pollution, to evaluate possible solutions, and to recommend the most feasible and cost-effective method for restoring and protecting lake water quality,

(3) Phase II Restoration/Protection Projects to implement in-lake techniques and watershed management practices recommended in a Phase I-type study, and

(4) Phase III Post-Restoration Monitoring Studies to determine the longevity and effectiveness of various restoration techniques and to advance the science of lake restoration.

The Regions will submit all State Clean Lakes applications for FY 1991 funding to Headquarters by March 29, 1991, along with a priority Ranking of these applications.

SENATOR KERREY: Nebraska has used Clean Lakes funds for a survey of 10-12 public lakes. It has not, however, moved beyond this phase. Do you have any suggestions for how the state could continue its work, absent a Clean Lakes program?

ANSWER: The Clean Lakes Program emphasizes a grassroots approach to improving and protecting lake resources with the intent that self-sufficient State and even local lake management programs are established. In the past several years, funding priority has been given for State Lake Water Quality Assessment grants to enable the State to develop and strengthen their overall State lake management programs.

The State or local agencies could choose to directly fund lake assessment/protection/restoration projects, or other Clean Water Act grants could be used for this purpose. For example, lake watersheds are often effected by nonpoint source pollution, perhaps making a particular watershed eligible for section 319 funding.

ENVIRONMENTAL EDUCATION OFFICE

SENATOR KERREY: With Congress's support you are creating an environmental education office. Could you explain how much money will be available to this office in fiscal 1992 and what specific programs will be run through it.

ANSWER: The President's request is for 7 Million dollars in contracts and grants funds. EPA's first priority will be to implement the National Environmental Education Act. To accomplish this goal, 25% of the of these funds will provide for Environmental Education Training programs for teachers, 38% for the Environmental Education Grants Program, 10% to the Environmental Education Foundation, $500,000 to the Council on Environmental Quality (CEQ) for a teacher awards program, 2% for the awards for outstanding efforts in the area of environmental education, and the remaining 25% for the operation of the Office of Environmental Education will support efforts throughout our regional offices and laboratories to implement initiatives under the Environmental Education Act including, Youth Environmental Action Forums for high school students focusing on careers in science and environmental professions, Presidential Youth Awards, and outreach programs to minorities in major urban centers across the nation.

MATH AND SCIENCE EDUCATION INITIATIVE

SENATOR KERREY: In your justification you indicate that there will be a $400,000 EPA contribution to the government-wide math and science education initiative.
Please explain how EPA funding will be used?

ANSWER: As one part of the government wide math and science education initiative, ORD will consider the several alternatives; graduate environmental fellowships, scholarships in environmental sciences at the under-graduate level programs in areas around ORD laboratories to identify and encourage students in seventh grade through high school in mathematics and environmental science studies though guidance and summer jobs at the laboratories.

WETLANDS SPENDING

SENATOR KERREY: Please Provide a breakdown of all spending which EPA contemplates on wetlands in fiscal 1992.

ANSWER: The Agency's 1992 budget request for wetlands activities is as follows:

OFFICE OF WATER (Including resources for Headquarters, Regions, and State grants): 187 workyears supported by $25,263,400.

OFFICE OF RESEARCH AND DEVELOPMENT: 8.7 workyears supported by $3,166,000.

OFFICE OF ENFORCEMENT: 10.2 workyears supported by $555,900.

OFFICE OF POLICY, PLANNING, AND EVALUATION: 1.9 workyears supported by $361,800.

WETLANDS RESEARCH

SENATOR KERREY: One of the wetlands in my State involves the Rainwater Basin area. Both the Fish and Wildlife Service and University of Nebraska-Lincoln have some preliminary research ongoing in this area. What they are finding, however, is that we are in need of additional information regarding wetlands in order to support future regulatory policy and wetlands management initiatives. What types of research do you anticipate which would be helpful in addressing this issue?

ANSWER: The Agency recognizes the need for scientifically sound information and methodologies to make effective decisions on Section 404 permit applications and to carry out the President's no-net-loss of wetlands goal. The Agency's research program focuses on three major areas of study, including wetlands water quality functions, mitigation of wetlands, and assessment of the cumulative impacts of wetlands.

Specific activities in FY 1992 will include: developing ecological indicators that can be used to diagnose adverse ecological conditions identified through monitoring; developing methods and data for assessing the functional value of wetlands in different landscape settings; developing wetland-specific water quality criteria; developing ecological "health" criteria for evaluating natural, created, and restored wetlands; and developing methods for water quality management and enhancement utilizing natural wetlands. While this research is not specifically targeted to the Rainwater Basin, we believe it is responding to the highest priority gaps in the scientific information base for EPA's wetlands program, and will help us make better decision in all wetland types.

The Agency has already devoted a considerable amount of attention specifically to the Rainwater Basin through development of an advance identification in the area. In cooperation with the Army Corps of Engineers, the U.S. Fish and Wildlife Service, the Nebraska Game and Parks Commission, the Nebraska Department of Environmental Control, and the USDA Soil Conservation Service, the Agency has developed a number of technical studies and reports to assist research and planning efforts.

WETLANDS REGULATION

SENATOR KERREY: A matter of great concern in Nebraska regards the regulation of wetlands under section 404 of the Clean Water Act. Farmers are becoming increasingly frustrated with the number of agencies involved, the difficulty in receiving a clear answer as to what does or does not constitute a wetlands, the apparent lack of coordination among the various agencies involved and the slow review process in obtaining a permit. I believe that we risk alienating large segments of the agricultural community and thereby will make it difficult to achieve our aims to protect legitimate wetland areas.

I would appreciate knowing what steps EPA is taking to address this problem? What steps have been taken to coordinate with other agencies in order to ensure that an efficient and fair review process is in place?

ANSWER: The Agency recognizes the importance of coordination and communication among the Federal agencies involved in implementing wetlands protection programs (primarily EPA and the Army Corps of Engineers). State and local regulatory agencies, and the general public including the agricultural community. Particular emphasis has been placed in recent years on increasing coordination both at the Headquarters and field levels of the Federal agencies involved, and the agencies have made significant progress toward lessening confusion among the regulated community and improving the general effectiveness of the program.

Through improved coordination, EPA and the Corps have established an improved working relationship to reduce policy differences in administering the Section 404 regulatory program. This new spirit of cooperation has resulted in the development of several important documents during the past two years, including the EPA/Army Mitigation Memorandum of Agreement (MOA), the EPA/Army Enforcement MOA, the EPA/Army MOA on geographic jurisdiction and Section 404(f) exemptions, the EPA/Army Memorandum to the Field on Agricultural Activities and Section 404 which clarifies what agricultural activities are exempted from regulation under Section 404(f); the interagency Federal Manual for Identifying and Delineating Jurisdictional Wetlands which establishes a consistent approach to wetlands delineation; and the Corps Regulatory Guidance Letter (RGL) 90-7 which clarifies "normal circumstances" as it relates to jurisdictional determinations over certain agricultural wetlands. This RGL clarifies that the Clean Water Act does not apply to areas designated as "prior converted cropland" under the Food Security Act of 1985.

It should be noted that Section 404(f) of the Clean Water Act provides exemptions from regulation for those discharges that are part of normal farming, ranching, and forestry activities associated with an ongoing operation, and these activities generally do not require a Section 404 permit. The great majority of agricultural activities in these areas are either exempt from regulation or fall outside the scope of regulated activities under Section 404. EPA and other Federal agencies involved in wetlands protection are working to maintain an aggressive public outreach program to keep the public, including farmers, informed about the applicability of Federal regulations.

ASBESTOS FUNDING

SENATOR KERREY: The proposed budget eliminates funding for loans and grants to remove asbestos from schools. Last year Congress included $46.3 million in the budget. What is your reason for not including a funding request this year for this program?

ANSWER: The Agency believes decisions on the management of asbestos, including the funding of abatement programs, are most appropriately handled at the State or local level, and that Federal funding is not a necessary component of the asbestos abatement program since the regulations require local education agencies, to take appropriate abatement actions. EPA would further argue that the extent of the problem in the financially neediest schools has already been addressed, greatly reducing the need for a continued Federal role in asbestos abatement. From 1985 through 1991 the Agency has or will make grants and loans in excess of $290 million to perform asbestos abatement projects. Through 1990 recipients of such funding totaled more than 1,000 school districts, which conducted more than 2,400 abatement projects in approximately 1,700 school buildings.

NONPOINT SOURCE POLLUTION: RISKS AND BUDGET PRIORITIES

SENATOR KERREY: An October 1990 GAO Report ("Greater EPA Leadership Needed to Reduce Nonpoint Source Pollution") indicated that "...in the case of nonpoint source pollution, the Agency's own analyses suggest that its resource problems may reflect inappropriate funding priorities: EPA's budgetary priorities are overwhelmingly oriented toward controlling point sources of pollution despite the fact that (1) the Agency identifies nonpoint source pollution as the primary cause of the nation's remaining water quality problems and (2) its own studies show that the comparative risks posed by nonpoint source pollution are at least as high...than the risks posed by point sources" (p. 53)

What is the Agency's response to this report?

What is the justification for a budget request that reduces nonpoint source pollution funds by $26 million to $24 million? Please provide a breakdown of how EPA plans to spend that amount.

ANSWER: A series of reports by GAO, the Science Advisory Board, and the States have documented that nonpoint source (NPS) pollution causes or contributes to a relatively large percentage of waterways still at risk because they are not meeting water quality standards or are otherwise impaired.

NPS problems have recently become more significant in part because EPA and the States have successfully focussed their attention and resources over the last 20 years on controlling point sources of water pollution. Our success in point source control must be maintained, which requires a continuing and sustained effort.

The Agency's FY 1992 Section 319 grants request (which is a $10 million increase over our FY 1991 request) must be viewed in the context of the FY 1990 and 1991 appropriations already providing $89.5 million for Section 319. The Federal role is to enable state and local governments to devise and implement appropriate solutions to NPS pollution, a role which is adequately supported by the Agency's FY 1992 request. Furthermore, it must be remembered that NPS pollution is fundamentally a local problem that is most amenable to local, not Federal solutions. Since much of NPS pollution is from agriculture, USDA is emphasizing programs to control it. Given the emerging nature of many States' NPS programs and the need to assure that NPS monies receive adequate EPA and State oversight, we believe our FY 1992 request is prudent and will result in measurable progress in reducing NPS risks.

The requested grant funds would be targeted toward those State programs that demonstrate the ability and willingness to implement the best management practices for controlling the most serious NPS pollution. For example, we will encourage State NPS programs that:

o protect and restore critical aquatic habitats.

o establish linkages with State agricultural agencies and USDA water quality efforts.

o develop effective pollution prevention programs that minimize generation of NPS pollution at the source.

o establish public education programs that encourage awareness and modification of day-to-day activities which generate NPS pollution.

ALLOCATION OF 319(h) FUNDS

SENATOR KERREY: EPA's allocation of the FY91 Nonpoint Source funds under 319(h) of the Clean Water Act is broken into a base program allocation to States and a lump sum pot, which is retained in each EPA Region for distribution on a competitive basis to projects throughout the region.

The base program grant is established using weighted criteria established by EPA. It is a good idea to fund base programs for development and implementation so as to institutionalize the program and activities through the longer term. The potential problem surfaces in up front EPA allocations of 5% of the funds off the top for specific areas leaving less for distribution to base programs for states. Additionally, since nonpoint sources is the greatest source of impairment to water of the nation and is widespread throughout all states; it would seem prudent that less of the fund be distributed on a competitive bases and more on a dedicated bases to all states. All states have substantial nonpoint source problems and dedicated funding for all states to systematically address their priority targeted problems should be a foremost consideration. Competitive maneuvering for funds between states in a region only distracts from the problem at hand and may award funding to projects based more on creative grantsmanship than problem identification and remediation.

Nebraska was first informed that the Region VII projected base program grant for FY91 was approximately $516,000. Three weeks ago EPA Headquarters reconsidered their last year's allocation formula and updated their data base. As a result, Nebraska is one of five states who will receive a substantial reduction in the base program grant. Nebraska's grant amount will be $391,391. Other states receiving cuts include Idaho, Utah, Montana, and Vermont.

If nonpoint source pollution is ubiquitous to all states, why has EPA chosen to dedicate so much of its nonpoint source budget to a beauty contest of projects rather than assuring that all states move forward on the issue through larger base grant allocations?

ANSWER: In FY 1990, the first year of the Section 319 grants program, EPA awarded 95% of the funds to States based on a policy that supported States' base programs while at the same time favoring State grant proposals that demonstrated a likelihood of effectiveness in achieving nonpoint source program goals. EPA also set aside 5% of the funds to distribute to States with outstanding fully approved programs which exhibit extraordinarily high quality and which are backed by a history of effective performance.

The purpose of the modest 5% national award was to reward effective State programs; provide an incentive to excellence; and promote programs that had demonstrated a high likelihood of demonstrating effective NPS control techniques that could benefit the national program.

In FY 1991 and future years, EPA will continue to set aside up to 5% of the section 319 grant funds for nationally selected programs or projects that are designed to promote the overall objectives of the national NPS program. These national awards may focus on nationally significant projects that can serve as national models, or on approaches that provide incentives for excellence in NPS control. We believe that this modest investment in nationally significant models and approaches will have considerable benefit for all state NPS programs.

NONPOINT SOURCES: GREAT LAKES SET-ASIDE

SENATOR KERREY: What was EPA's philosophy in earmarking 5% of the funds to the Great Lakes and subsequently reducing the amounts available to base grant programs in all fifty states?

ANSWER: The Great Lakes have received the FY 1991 set-aside of 5% of Section 319 grant funds, which are being awarded annually to projects or programs that can serve as national models, or demonstrate approaches that provide incentives for excellence in NPS control.

The Great Lakes were selected for the FY 1991 set-aside for several reasons. First, as recognized in the Great Lakes Water Quality Agreement of 1978 entered into by the United States and Canada, and by sections 108 and 118 of the Clean Water Act, the Great Lakes are a uniquely valuable fresh-water resource. Reflecting the Great Lakes' importance, EPA has recently established a Great Lakes Basin Initiative that marshals EPA resources to assist a targeted approach to protecting the Great Lakes.

Second, the Great Lakes provide an important national laboratory for developing effective approaches to control NPS pollution. The Great Lakes reflect a broad cross-section of common NPS problems, including agricultural and urban runoff, in-place contamination, and high-quality waters threatened by growth and development. Third, they afford the opportunity to provide a model of institutional problem-solving relationships among two countries, three EPA Regions, and eight States. Moreover, they are addressed by a number of statutory programs and EPA initiatives to control and abate the Great Lakes' point and nonpoint pollution problems comprehensively, thus affording an opportunity to demonstrate integrated approaches for watershed protection.

The set-aside funds will be used exclusively to support specific nonpoint source implementation and demonstration projects in the Great Lakes basin that will demonstrate innovative and effective approaches that may be used nationally.

NONPOINT SOURCE GRANT ALLOCATIONS

SENATOR KERREY: What are the criteria being used by EPA for the allocation of base grants and why would a state the size of Nebraska, which is an agriculturally dominated State, ever receive a reduction in funds?

ANSWER: The criteria used by EPA to establish initial planning targets for State grants include cropland acreage; pasture and rangeland acreage; forest harvest acreage; wellhead protection areas; mining acreage; pesticide use; critical aquatic habitats; and population. These factors, used originally in FY 1990, were retained in FY 1991. Similarly, the factors retained the same weights as previously, and the data sources used to derive the data for application of the weighted factors were unchanged except to update them where updated data was available. As a result of the use of updated data, some of the results differed from FY 1990, and a few States, such as Nebraska, experienced some reduction in their planning targets.

The most significant changes in the underlying data that are primarily responsible for the changes in Nebraska have occurred in the National Resource Inventory (NRI) data base, which is developed by the U.S. Department of Agriculture. These data were the primary source of information for the agricultural factor representing cropland, nutrient, and sediment nonpoint source impacts. According to USDA's Summary Report - National Resource Inventory, during the 1987 inventory it was necessary to change certain data that had been in the 1982 NRI data base. The report cautions that, "Therefore, some comparisons between 1982 and 1987 conditions will be erroneous if information derived from the 1982 NRI is used."

We are continuing to review the planning targets formula, the underlying data sources, and our methodology applying these data to Nebraska and other States.

ALLOCATION OF 104(b)(3) FUNDS UNDER THE CLEAN WATER ACT

SENATOR KERREY: As we understand the intent of Congress for the appropriation of these funds, it involved an effort to assist states in funding additional program requirements of the Clean Water Act and to some extent offsetting the loss of set-aside for water quality planning and management under Title II, NAMELY 205(J)(1) AND 205(J) (5) funds.

New requirements of the 1987 CWA amendments which all states must address include combined sewer overflows (CSOs) and stormwater permitting to name a couple. Few states currently have programs to address these issues. This means that most states must develop programs to address these issues.

EPA seems intent on directing these funds to address CSOs as a priority and stormwater permitting at some secondary level. Additionally, EPA seems inclined to allocate funds to states based upon the number of CSOs or stormwater permits each may need to address.

This allocation approach may be the most equitable approach for distributing funds once programs are beyond development and into implementation. However, the resources requirements for developing a program to address these issues will not be that different form state to state. For this reason, the initial allocation to state should include, at minimum, a nearly equal base amount for each state to develop their CSO and stormwater programs.

Additionally, their should be no competition for these funds, but rather an absolute dedication of funds to all states to allow for program development. Subsequent funding by Congress, if appropriated, can be used for program implementation.

What is EPA's intent regarding the use of 104(b)(3) funds ($16 million)?

ANSWER: As required by section 104(b)(3), EPA intends to fund unique, pilot projects or special demonstrations or investigations that will show concrete results in controlling water pollution problems. Section 104(b)(3) funds are for projects of a relatively short time frame that will provide tangible results which can be shared with other States. These grants are not to be used for ongoing program activities and administration, which are funded under section 106 grants.

RATIONALE FOR DEDICATION TO CSO'S AND STORMWATER

SENATOR KERREY: Why is it being dedicated almost solely to CSO's and Stormwater, when there may be higher priority problems in other areas which may very from state to state?

ANSWER: EPA is attempting to address two objectives: satisfying the requirements of section 104(b)(3); and targeting the money to start up or unique projects that, in fact, will show measurable improvements. The CSO and storm water problems are ones that have relatively recently been emphasized, not been fully addressed to date, and which will require considerable attention in the years ahead. Storm water and CSO problems are two areas where we need to test approaches and controls so that we can better understand and share our experience with all States. In the event that funds are available after funding the storm water and CSO projects, EPA will consider other eligible projects that meet the requirements of section 104(b)(3).

STATES UPFRONT COSTS

SENATOR KERREY: Is EPA recognizing the upfront cost of all states in development of these new programs?

ANSWER: EPA recognizes the additional work involved with controlling CSO and storm water discharges which all States must address. We will select projects which we feel will advance our knowledge of CSO and storm water problems and controls with the intent of sharing this data with all States.

STATE BASE AMOUNT FOR PROGRAM DEVELOPMENT

SENATOR KERREY: Is EPA going to establish a base amount to each state for program development?

ANSWER: EPA is not going to establish a base amount for each state for program development. The purpose of 104(b)(3) grants is to fund specific projects, demonstrations, etc. These grants are project specific; not for ongoing program support. While most States could receive some 104(b)(3) funds, they will be targeted to certain activities.

USE OF FUNDS

SENATOR KERREY: Considering the magnitude (extremely large) of the Stormwater issue, does EPA believe the $16 million can accomplish both program development and implementation in all States?

ANSWER: EPA clearly understands that identifying and controlling storm water problems in all States is beyond the scope of these grants. The grants made under section 104(b)(3) are not to implement storm water controls, but rather to conduct upfront development of storm water control programs, such as assessments, approaches, and schedules. What EPA hopes to do with 104(b)(3) grants is to test some approaches, such as model permits, to identify what works and what is possible and pass this along to all States. With the projects and demonstrations funded under section 104(b)(3) we will provide all States with additional knowledge and tools as they address storm water problems.

CWA SECTION 106 FUNDING

SENATOR KERREY: Does EPA believe there are too many legislative requirements for 106 funding to adequately address all of them?

ANSWER: Section 106 funds are eligible to support a broad range of Clean Water Act (CWA) legislative requirements. Most studies on the subject indicate that activities required of states by the CW exceed the total funding currently available from Federal and state sources. EPA believes that the appropriate mix of Federal and state funding and state flexibility to program activities to the most pressing water quality problems allows states to implem,ent effective water quality programs. In addition, we encourage states to consider and adopt innovative funding initiatives, including permit fees, speciaal targeted taxes, and user fees, to supplement funds available from general revenue sources.

STATE'S USE OF SECTION 106 FUNDING

SENATOR KERREY: Is EPA assuming all States have priorities consistent with the earmarks they put on the use of 106 funds?

ANSWER: Currently, the funding for State ground-water protection activities is the only earmark of Section 106 grants to States. This earmark was instituted by Congress in the FY 1985 appropriations process. Language was included in the Appropriations Committees' reports on the FY 1985 appropriations bill that directed EPA to set aside some $7 million from the total Section 106 funds to support the development and implementation of States' ground-water protection strategies. Since 1985, the Congress has maintained the ground-water protection earmark in the appropriations process. In fact the House Appropriations Committee's Report on the FY 1990 appropriations bill specifically cited ground-water protection as the only appropriate earmark of Section 106 funds. We agree with the Congress on the priority need of ground-water protection as an earmark. We also believe all states would consider ground-water protection a priority for 106 funds.

APPROPRIATE USE OF FUNDS

SENATOR KERREY: Why is EPA requiring states to use funds appropriated under the Clean Water Act to address requirements of the Safe Drinking Water Act? Example Wellhead Protection setaside on 106 funds.

ANSWER: In FY 1990, the ground-water protection earmark of Section 106 funds was increased by over $4 million, to a total of $11.2 million. The increase was requested by EPA to specifically encourage states to expand their ground-water protection efforts to include activities in support of Wellhead Protection Programs and pesticides management plans, both of which are considered to be critical components of a state's Ground-Water Protection Program. The Agency's emphasis on these two activities is consistent with a primary provision of the Clean Water Act. Section 102(a) states that:

> The Administrator...shall prepare or develop comprehensive programs for preventing, reducing, or eliminating the pollution of the navigable waters and ground waters and improving the sanitary conditions of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for the protection and propagation of fish and aquatic life and wildlife, recreational purposes, and the withdrawal of such waters for public water supply, agricultural, industrial, and other purposes...

Therefore, while these ground-water activities support state efforts under both the Safe Drinking Water Act (SDWA) and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), they are also critical activities for meeting the objectives of the Clean Water Act. In absence of Congressional appropriations for wellhead protection under the SDWA, the relatively small funding available under Section 106 has provided the "spark" for over 30 states to submit Wellhead Protection Programs to EPA for review.

FLEXIBILITY IN STATES' USE OF FUNDS

SENATOR KERREY: With limited resources to address all water quality issues, is it not more prudent to allow States the flexibility to address their state specific priorities rather than earmarking certain portions of the fund to address EPA identified priorities? To do otherwise reduces available funds and limits a state's ability to deal with their state specific water quality priorities.

ANSWER: As stated in response to the previous questions, the only legislative earmark of Section 106 funds has been for ground-water protection. In addition to this earmark, the use of Section 106 funds is also conditioned upon national guidance issued by EPA for both ground-water and surface water protection. These guidances set broad priorities for state use of Section 106 funds which the Agency believes should be addressed by 106 grant funded projects. In developing specific projects to meet these priorities, however, states have great flexibility to address their individual water quality needs.

For example, EPA believes ground-water protection is a national priority and believes every state has ground-water protection needs which must be met. Consequently, the Agency makes Section 106 funds available for state projects which fulfill this goal. However, EPA feels that protection of ground water is best served, and grant funds most effectively spent, when states are provided discretion to address their unique hydrogeology, mix of industry, and use of ground water when developing specific projects. EPA Regional Offices stress this flexibility in working with states to develop grant workplans.

QUESTIONS SUBMITTED BY SENATOR NICKLES

NONPOINT SOURCE GRANTS: ILLINOIS RIVER BASIN

SENATOR NICKLES: Is EPA still planning to require Oklahoma and Arkansas to contribute 40% in matching funds before EPA releases any of the $750,000 appropriated for the Illinois River Basin nonpoint source management program?

ANSWER: Yes, the Conference Report accompanying the appropriations bill for Fiscal Year 1991 stated that the Illinois River project should be funded under Section 319. Section 319 requires a 40% State match for all grants awarded under Section 319 grants. The award for the Illinois River Basin grant will be made by EPA's Region VI office in Dallas, which is currently reviewing all issues relating to the award of the Illinois River basin grant.

UNDERGROUND STORAGE TANKS REQUIREMENTS

SENATOR NICKLES: Mr. Administrator, I am concerned about the status of EPA's Underground Storage Tank Program. As you know, owners/operators are having difficulty obtaining pollution liability insurance and not all states have enacted their own UST programs. I have always been confused as to why EPA's Technical Standards regulations do not become fully effective until seven years after the Financial Responsibility regulations because that means that tank owners have to obtain insurance prior to having to meet the actual technical standards by upgrading and replacing their tanks. As you know, it is a lot easier for these owners to obtain insurance coverage once they have upgraded or replaced their tanks. The Committee is interested in EPA's thoughts on this and that is why we directed you to report to the Committee on this matter by last February 1 with findings and recommendations. EPA did extend the financial responsibility deadlines one year for the two smallest categories last year, and I am grateful for that. In view of the progress that has been made during this past year, what is the outlook for EPA to extend the impending April 26 and October 26 UST financial responsibility deadlines, and what will EPA be recommending in its Report to this Committee?

ANSWER: When we promulgated our regulations (in 1988) we had estimated that the technical requirements (which include tank installation, leak detection, corrosion protection, and corrective action) would have the most impact on tank owners, with the corrective action requirements accounting for most of the costs and impacts. However, the Financial Responsibility requirements have provided the impetus for the creation of numerous state assurance funds which have not only helped tank owners comply with the Financial Responsibility requirements, but have also provided funds for cleaning up releases, especially existing releases that are not covered by private insurance. As of March 26, 1991, 43 states have legislation authorizing the development of assurance fund programs. Of these, 21 state assurance funds have been approved by EPA, with another 10 submitted for approval. As a result, owners and operators in these 31 states have a means of complying with the Financial Responsibility requirements. These state assurance funds, by paying for corrective action costs, are keeping a substantial number of small businesses in business.

Last year, in an effort to provide short-term relief to members of the regulated community, the Agency extended the financial responsibility deadlines by one year each for Categories III (to April 26, 1991) and IV (to October 26, 1991). However, members of these two groups are concerned about the ability of some members to comply by these deadlines. Because we are sensitive to the difficulties members of these categories may face as they try to comply with the Financial Responsibility requirements, the Agency is considering the appropriateness of these two compliance dates.

It should be noted, however, that an extension of these deadlines, while providing short-term relief, does not solve some serious underlying problems faced by many small businesses that own tanks. Small businesses are faced with the problem of raising funds to address existing leaks that private insurance does not cover and raising the capital needed to test their tanks and to replace and upgrade them. A fundamental problem stems from the fact that the law requires financial responsibility for all tanks, and many tanks are simply not insurable or suitable for coverage under some state funds. They are either too old, have leaked, or are currently leaking. In addition, many small businesses will not have sufficient revenues to cover the cost of the insurance which is available. Many small businesses are hit by this double dilemma. They cannot pay for cleaning up all existing leaks, and they do not have the money to make the improvements to their tanks that may make them insurable. Significantly, they will eventually have to meet these improvement costs anyway as part of the technical standards requirements.

A viable solution to this dilemma has come from the states. Not only have 43 states authorized state assurance funds, but twelve states have also developed financial assistance programs that help owners and operators meet the cost of complying with the technical standards. In our draft Report to the Committee (which is undergoing interagency review), we discuss some of these problems and some of the solutions that states have adopted to help its small businesses comply with the regulations. We expect to be able to submit the Report to the Committee in May 1991.

WOOD PRESERVING RCRA LISTINGS REGULATION

SENATOR NICKLES: The budget for FY 1992 cited the wood preserving RCRA listings as the least cost effective regulation promulgated in over 20 years because it will cost $5.7 trillion per premature death averted.

My state of Oklahoma has three wood preserving plants and is the home of Kerr-McGee Chemical Corporation, Forest Products Division, a leader in U.S. treated railroad tie production. The listings regulation, by imposing excessive costs on wood preserving facilities, could cause plant closures and jeopardize this important industry's viability.

Are you doing anything now to negotiate with the industry to achieve a more cost-effective regulation? If so, when will these discussions be concluded?

What areas of the final regulation, from EPA's perspective, are open to discussion with the wood preserving industry? Of what consequence or importance are these areas to EPA and to the industry?

ANSWER: The Agency is working with the wood preserving industry to resolve their concerns. Complete consideration was given to public comments to the proposed rule which was published in the Federal Register on December 30, 1988. A sixty-day extension to the comment period was provided at the request of the American Wood Preservers Institute (AWPI). Several modifications were incorporated into the final rule based on comments from members of the wood preserving industry. Following promulgation of the final rule, which was published in the Federal Register on December 6, 1990, the Agency presented the provisions of the rule to representatives from the preservative manufacturers and held a series of compliance workshops for members of the wood preserving industry in Atlanta, Seattle, and Washington, DC, in conjunction with the AWPI. There were discussions with the industry by phone in January and EPA met with the AWPI in February 1991 specifically to discuss their concerns regarding implementation of the final rule.

In the February meeting with the AWPI, members of the wood preserving industry raised five issues they would like EPA to address in a modification of the December rule. EPA agreed with the industry in February regarding a schedule for sharing information and agreed to a subsequent meeting in March. That meeting occurred March 25. The primary issue is that of extension of the effective date of the rule. We hope to make a decision regarding compliance deadlines by the end of April or early May. On other issues, we are still evaluating what action is appropriate.

The Agency estimated that the final rule would have a present value cost of $108-137 million and that it would avoid 2-140 cancer cases over 300 years. EPA estimates that the annual cost of the final rule will be $11-14 million. The Budget of the United States Government, Fiscal Year 1992 reported the cost-effectiveness of the wood preserving rule as $5.7 trillion per premature death averted. This estimate was developed by the Office of Management and Budget by dividing an EPA present value cost estimate for the rule of $108 million by an estimate of 0.0000189 discounted future cancer cases avoided, derived from EPA risk estimates. Given the difficulty in comparing costs and benefits over such disparate timeframes, the Agency believes that the most appropriate way to present cost-benefit results is to compare total present value costs to total benefits. Comparing total present value costs with total undiscounted cancer cases, the cost-effectiveness of the rule would range from $800,000 to $69,000,000 per cancer case avoided. OMB agreed in November 1990 that not discounting future cancer cases would substantially reduce the cost per cancer case avoided to "as low as $800,000 per undiscounted cancer case prevented -- near the lower bound of EPA's range of acceptable cost-effectiveness ratios." The discounting procedure, when applied to cancer cases, has the effect of substantially reducing the numerical value of future cancer cases avoided relative to cancer cases avoided in the present. For example, one cancer case avoided 50 years in the future is equivalent to 0.02 cancer cases avoided today when the future cancer case is discounted using an eight percent discount rate.

FUNDS SPENT FOR SUPERFUND/PRP IDENTIFICATION

SENATOR NICKLES: As you know, many involved in the Superfund program in the public and private sector are concerned that spending on non cleanup activities, such as negotiations and litigation with PRPs, are excessive and may impede cleanup progress. EPA's Report to Congress entitled "Progress Toward Implementing Superfund Fiscal Year 1989", dated December, 1990, breaks down Superfund expenditures into several categories. I would like to get some more detailed figures. Specifically: how much money was spent in FY 87-90 on identification of PRPs?

ANSWER: The amount obligated for identification of PRPs in FY 87-90 is as follows:

FY87	FY88	FY89	FY90
$8.2M	$9.2M	$14.7M	$13.9M

FUNDS SPENT FOR SUPERFUND PRP NEGOTIATIONS/DESIGN & PERFORMANCE

SENATOR NICKLES: How much money was spent in FY 87-90 on negotiations with PRPs over agreements for design and performance of RI/FS, RDs, and RAs?

ANSWER: The amount obligated for negotiations with PRPs over agreements for design and performance of RI/FS, RDs, and RAs in FY 87-90 is as follows:

FY87	FY88	FY89	FY90
$8.1M	$7.8M	$7.9M	$6.6M

FUNDS SPENT ON LITIGATION WITH PRPS

SENATORS NICKLES: How much money was spent in FY 87-90 on litigation with PRPs over agreements for design and performance of RI/FS, RDs, and RAs?

ANSWER: The amount obligated for litigation with PRPs over agreements for design and performance of RI/FS, RDs, and RAs in FY 87-90 is as follows:

FY87	FY88	FY89	FY90
$3.3M	$5.3M	$4.9M	$1.5M

FUNDS SENT TO DOJ FOR SUPERFUND LITIGATION

SENATOR NICKLES: How much money has EPA forwarded to the Department of Justice to handle negotiation and litigation associated with Superfund liability concerning Superfund sites?

ANSWER: The amount that EPA has forwarded to the Department of Justice via the Interagency agreement process to handle negotiation and litigation associated with Superfund liability is as follows:

FY87	FY88	FY89	FY90
$10.9M	$16.4M	$22.1M	$25.7M

PAST FUNDING FOR SUPERFUND FOIA REQUESTS

SENATOR NICKLES: How much money was spent in FY87-90 responding to Superfund FOIA requests?

ANSWER: Presently, the Agency does not maintain records regarding the resources spent to respond to Superfund FOIA requests. Responding to Superfund FOIA requests is a decentralized function that is performed at Headquarter's as well as in each of the ten Regions. Records of the fees charged for FOIAs are maintained independently by the Regions and Headquarters. The fees charged for the FOIAs cover processing and copying costs but do not include the cost of workyears.

CLARIFICATION OF SPENDING FOR "REMOVAL ACTIONS"

SENATOR NICKLES: In the report, when you classify spending as being for "removal actions" or "remedial actions", do you count negotiations and/or litigation with PRPs over the scope and type of work performed, or does the figure represent only money spent on actual cleanup actions?

ANSWER: When the terms "removal action" or "remedial action" are used in the Annual Report to Congress, it refers to the actual cleanup efforts only.

SUPERFUND SITE CLEANUP WORK

SENATOR NICKLES: Your report on FY 1990 Superfund Successes states that PRPs agreed to undertake cleanup work valued at $1.3 billion in FY 1990. How much of that money will be spent in FY 1990-91? Please breakdown the sites involved, noting in each case when the site was listed, when settlement negotiations began and how long the lasted.

ANSWER: The 1.3 Billion dollars is an estimate of total response costs to be expended by PRPs for site study/remediation under CERCLA settlements and administrative orders. Planned expenditures is not a reporting requirement of the settlement and must be acquired from the settling parties. EPA does not have this information.

The sites involved in the FY'90 settlement are provided in the inserts. Three inserts have been provided as follows:

- Insert A - FY 90 Consent Decrees for RD/RA
- Insert B - FY 90 Administrative Orders (Unilateral) in compliance for RD/RA
- Insert C - FY 90 Administrative Orders for RI/FS and Removal

FY '90 Consent Decrees (CD) for RD/RA

State	Site Name	Activity	CD Referral Date	CD Lodging Date	Response Remidies	Estimated value of Response	NPL Listing	Negotiation Start	Negotiation Duration
AL	PERDIDO GROUNDWATER	CD01	3/01/90	3/01/90	RD/RA	708,638	9/08/83	1/06/89	419
AL	STAUFFER CHEMICAL CO AXIS	CD01	1/05/90	1/05/90	RD/RA	3,000,000	9/21/84	7/20/89	169
AL	STAUFFER CHEMICAL CO COLD	CD01	1/05/90	1/05/90	RD/RD	3,000,000	9/21/84	7/20/89	169
AZ	TUSCON INTL AIRPORT	CD01	3/08/90		RD/RA	17,000,000	9/01/83		
CA	INTEL CORP	CD01	9/27/90		RI/FS/RD/RA	25,000,000	6/01/86	5/11/89	504
CA	RAYTHEON CORP	CD01	9/27/90		RI/FS/RD/RA	25,000,000	6/01/86	5/11/89	504
CA	SOUTH BAY ASBESTOS	CD02	9/16/90		RI/FS/RD/RA	735,000	6/01/86	8/08/88	769
CO	WOODBURY CHEMICAL	CD02	6/08/90	8/24/90	RD/RA	1,000,000	9/08/83	12/26/89	164
CT	KELLOGG-DEERING	CD01	9/28/90		RD/RA	9,000,000	9/01/84	5/23/90	128
DE	ARMY CREEK LANDFILL	CD01	9/28/90		RD/RA	25,000,000	9/01/83	6/29/90	91
FL	CITY INDUSTRIES	CD02	9/28/90	9/28/90	RA	4,500,000	10/04/89	4/20/90	161
FL	DUBOSE OIL PRODUCTS CO	CD01	9/29/90	9/29/90	RD	350,000	6/01/86	3/30/90	183
IA	CHEMPLEX CO	CD01	9/28/90		RD/RA	2,000,000	10/15/84	5/17/88	864
KS	DOEPKE DISPOSAL HOLLIDAY	CD01	8/30/90	9/14/90	RD/RA	5,000,000	9/08/83	1/25/90	246
MA	IRON HORSE PARK	CD01	3/20/90	9/13/90	RD/RA	1,600,000	9/01/84	7/14/88	399
MA	SULLIVAN'S LEDGE	CD01	9/27/90		RD/RA	10,500,000	9/01/84	2/15/89	589
MA	WELLS G&H	CD02	9/28/90		RI/FS/RD/RA	69,450,000	9/01/83	6/02/88	848
ME	O'CONNOR CO.	CD01	9/07/90		RD/RA	14,000,000	9/01/83	5/05/89	500
MI	AUTO ION CHEMICALS INC	CD01	5/15/90	8/28/90	RD/RA	6,000,000	9/08/83	8/27/89	261
MI	LIQUID DISPOSAL INC	CD03	3/21/90		RD/RA	600,000	9/08/83	1/26/89	525
MO	ELLISVILLE AREA SITE	CD03	7/20/90		RD/RA	8,284,000	9/08/83		
MO	FINDETT CORP	CD01	12/29/89	3/07/90	RD/RA	2,000,000	10/15/84	10/30/88	425
MO	SOLID STATE CIRCUITS	CD02	8/10/90	8/15/90	RD/RA	8,750,000	6/10/86		
MO	TIMES BEACH	CD01	7/19/90	7/20/90	RI/FS/RD/RA	24,563,000	9/08/83	3/31/88	841
MS	FLOWOOD SITE	CD01	11/13/89	11/13/89	RD	2,300,000	9/21/84	3/17/89	179
MS	NEWSOM BROTHERS REICH	CD01	3/08/90	6/01/90	RV/RA	17,000,000	6/10/86	9/20/89	169
MT	BURLINGTON NORTHERN	CD01	6/29/90		RD/RA	5,000,000	10/15/84	11/28/89	213
MT	EAST HELENA SITE	CD01	6/29/90	9/11/90	RD/RA	12,000,000	9/21/84	2/23/90	126
NJ	CHEMICAL CONTROL CORP	CD01	9/14/90		RD/RA	11,000,000	9/01/83	8/03/87	1,138
NM	SOUTH VALLEY	CD01	12/26/89	3/21/90	RD/RA	4,000,000			
NY	FULTON TERMINALS	CD01	9/28/90		RD/RA	7,000,000	9/01/83	6/27/90	93
NY	HOOKER CHEM S-AREA	CD02	9/07/90		RD/RA	117,000,000	9/01/83	4/05/89	534
NY	HUDSON RIVER PCBS	CD01	4/06/90		RA	15,000,000	9/01/84	3/03/89	399
NY	NORTH SEA MUNICIPAL LANDFILL	CD01	8/07/90	9/26/90	RD/RA	7,000,000	6/01/86	10/23/89	288

FY '90 Consent Decrees (CD) for RD/RA

State	Site Name	Activity	CD Referral Date	CD Lodging Date	Response Remidies	Estimated value of Response	NPL Listing	Negotiation Start	Negotiation Duration
NY	PORT WASHINGTON LANDFILL	CD01	7/25/90		RD/RD	26,000,000	9/01/83	11/13/89	254
NY	SYOSSET LANDFILL	CD01	9/27/90		RD/RD	26,200,000	9/01/83	1/31/90	239
NY	YORK OIL	CD01	9/25/90		RD/RA	3,300,000	9/01/83	7/15/88	802
OH	COSHOCTON LANDFILL	CD01	12/29/89		RD/RA	8,920,000	9/08/83	8/26/88	490
OH	SCHILLING E H LANDFILL	CD01	7/30/90		RD/RD	11,000,000	9/08/83	11/08/89	237
OH	SUMMIT NATIONAL LIQUID	CD01	1/10/90	6/29/90	RD/RA	34,000,000	9/08/83	11/22/87	780
PA	AMBLER ASBESTOS PILES	CD02	6/29/90	9/12/90	RD/RD	753,000	6/01/86	8/16/89	317
PA	AMBLER ASBESTOS PILES	CD03	9/26/90		RD/RA	5,144,000	6/01/86	7/13/89	427
PA	BALLY GROUNDWATER CONTAMINATION	CD01	9/24/90		RD/RA	3,500,000	7/01/87	5/30/89	483
PA	BENDIX FLIGHT SYSTEMS	CD01	3/29/90	5/18/90	RD/RA	4,487,000	7/01/87	12/30/88	454
PA	CRAIG FARM DRUM	CD01	6/19/90	8/10/90	RD/RA	5,100,000	9/01/83	8/24/89	299
PA	KIMBERON SITE	CD01	9/26/90		RD/RA	2,630,000	9/01/83	6/01/89	482
SC	CAROLAWN	CD01	9/28/90		RI/FS/RD	30,000	9/01/83	2/09/90	231
SD	WHITEWOOD CREEK	CD01	8/24/90		RD/RA	500,000	9/08/83	3/30/90	144
TX	ODESSA CHROMIUM #2	CD01	6/28/90		RD/RA	4,000,000	6/10/86		
TX	SHERIDAN DISPOSAL SERVICE	CD01	12/29/89		RD/RA	28,000,000	3/31/89	2/15/89	317
TX	SHERIDAN DISPOSAL SERVICE	CD02	3/29/90		RD/RA	350,000	3/31/89	2/10/89	412
TX	SOUTH CAVALCADE STREET	CD01	6/29/90	7/30/90	RD/RA	14,000,000	6/10/86	12/08/89	203
UT	MIDVALE SLAG	CD01	7/18/90		RD/RA	22,500,000	6/10/86	8/15/86	1,433
UT	MIDVALE SLAG	CD02	8/20/90		RD/RA	2,500,000	6/10/86		
UT	SHARON STEEL	CD01	7/18/90		RD/RD	19,500,000	8/30/90	8/15/86	1,433
UT	SHARON STEEL	CD02	8/20/90		RD/RA	15,500,000	8/30/90	8/15/86	1,433
WA	COMMENCEMENT BAY	CD07	9/27/90		RD/RA	3,000,000	9/08/83	5/18/90	132
WA	NORTHSIDE LANDFILL	CD01	9/25/90		RD/RA	30,000,000	6/10/86	3/22/90	187
WI	WAUSAU GROUNDWATER CONTAMINATION	CD02	9/13/90		RI/FS/RD/RA	750,000	6/10/86	10/12/88	229
Total:						736,004,638			

FY '90 Administrative Orders (Unilateral) for RD/RA in Compliance

State	Site Name	Activity	Date Order Issued	Response Remedies	Estimated Value of Response	NPL Listing	Negotiation Start	Negotiation Duration
AZ	PHOENIX-GOODYEAR AIRPORT	UA06	9/10/90	RD/RA	17,100,000	9/08/83	4/02/90	161
CA	BECKMAN INSTRUMENTS	UA01	9/28/90	RD/RA	5,000,000	6/01/86	4/16/90	165
CA	IRON MOUNTAIN MINE	UA01	3/29/90	RA	5,000,000	9/01/83	1/15/90	73
CA	KOPPERS CO INC	UA02	9/28/90	RD/RA	70,000,000	9/01/84	4/23/90	158
FL	SYDNEY MINE SLUDGE PONDS	UA02	7/10/90	RD/RA	250,000	10/04/89	2/02/89	111
IL	CROSS BROTHERS PAIL RECY.	UA01	2/08/90	RD/RA	1,956,700	9/08/83	7/26/89	82
IL	WAUCONDA SAND AND GRAVEL	UA01	12/19/89	RD/RA	12,000,000	9/08/83	5/05/88	593
KS	CHEROKEE COUNTY	UA01	6/20/90	RD/RA	9,800,000	9/08/83	1/05/90	166
KY	SMITH'S FARM BROOKS	UA01	3/14/90	RD/RA	28,000,000	6/10/86		
MA	NORWOOD PCBS	UA01	8/08/90	RD/RA	16,100,000	6/01/86	3/22/90	139
MI	CLARE WATER SUPLY	UA01	9/14/90	RD/RA	800,000	9/21/84	9/14/90	
MI	NEDBLUM INDUSTRIES	UA01	1/04/90	RD/RA	1,379,000	9/08/83	8/16/89	71
MI	KYSOR INDUSTRIAL CORP	UA01	5/16/90	RD/RA	15,000,000	10/04/89		
MI	NORTHERNAIRE PLATING	UA01	5/16/90	RD/RA	1,000,000	9/08/83		
MN	ARROWHEAD REF CO	UA01	3/26/90	RD/RA	2,000,000	9/21/84		
MO	SOLID STATE CIRCUITS	UA02	6/20/90	RD/RA	7,200,000	6/10/86	12/13/89	189
NC	ABERDEEN PESTICIDE DUMPS	UA02	3/14/90	RD/RA	4,500,000	3/31/89	12/21/89	83
NE	HASTINGS GROUNDWATER	UA03	9/28/90	RD/RA	4,000,000	6/10/86	12/14/88	653
NJ	EWAN PROPERTY	UA02	3/27/90	RD/RA		9/01/84	11/28/88	301
NJ	KIN-BUC LANDFILL	UA01	9/21/90	RI/FS/RD/RA	17,900,000	9/01/83		
NJ	NASCOLITE CORP.	UA01	9/24/90	RD/RA	10,000,000	9/01/84	9/16/88	196
NJ	SCIENTIFIC CHEMICAL PROCESSING	UA03	9/28/90	RD/RA	2,930,000	9/01/83		
NY	BYRON BARREL AND DRUM	UA02	9/21/90	RD/RA	8,000,000	6/01/86	7/19/90	68
OH	ALSCO ANACONDA	UA01	12/28/89	RD	4,200,000	6/10/86	5/15/89	184
OH	BIG D CAMPGROUND	UA01	3/27/90	RD/RA	39,000,000	9/08/93	11/20/89	91
PA	DORNEY ROAD SITE	UA01	9/28/90	RD/RA	14,000,000	9/01/84	9/02/88	756
PA	HENDERSON ROAD SITE	UA01	8/10/90	RD/RA	7,300,000	9/01/84	7/15/89	391
PA	STRASBURG LANDFILL	UA01	10/17/89	RD/RA	350,000	3/31/89	5/01/89	77
TX	MOTCO INC	UA01	6/11/90	RD	500,000	9/08/83	12/30/89	163
WV	ORDNANCE WORKS DISPOSAL	UA01	6/20/90	RD/RA	8,500,000	6/01/86	6/30/89	353
Total:					313,765,700			

Note: Unilateral Orders are included only if they have been complied with.

FY '90 Administrative Orders (Consent and Unilateral) for RI/FS or Removal

State	Site Name	Activity	Date Order Issued	Response Remedies	Estimated Value of Response	NPL Listing	Negotiation Start	Negotiation Duration
AK	ARTIC SURPLUS	AC01	6/21/90	RV	4,300,000	8/30/90		
AL	J & A ENTERPRISES	AC01	8/24/90	RV	250,000			
AL	OLIN CORP/MCINTOSH PLT	AC01	5/08/90	RI/FS	750,000	9/21/84	1/12/90	116
AL	REDWING CARRIERS INC	AC01	7/02/90	RI/FS	250,000	2/21/90	2/23/90	98
AZ	APACHE POWDER CO	UA01	10/05/89	RI/FS	1,100,000	8/30/90		
CA	APODACA & SONS PLATING	UA01	9/12/90	RV	1,000,000			
CA	FRESNO SAN LANDFILL	AC01	9/20/90	RI/FS		10/04/89	6/20/90	92
CA	JOHN ALEXANDER RESEARCH	UA01	1/05/90	RV	1,000,000			
CA	PACIFIC COAST PIPELINES	AC01	11/15/89	RI/FS	1,500,000	10/04/89	6/27/89	141
CA	SOLA OPTICAL USA INC	AC01	10/03/89	RI/FS	500,000	2/22/90	5/16/89	140
CA	UNITED HECKATHORN	UA01	9/28/90	RV	500,000	3/14/90		
CA	VALLEY WOOD PRESERVING	AC01	5/01/90	RI/FS	1,500,000	3/31/89	2/03/90	87
CA	VALLEY WOOD PRESERVING	AC02	12/11/89	RV	750,000	3/31/89	10/17/89	55
CO	CHEROKEE SOLVENTS	AC01	9/28/90	RV	8,000			
CO	LOWRY LANDFILL	AC03	10/16/89	RI/FS	1,000,000	9/21/84	6/30/89	115
CO	LOWRY LANDFILL	AC04	10/16/89	RI/FS	1,000,000	9/21/84	6/30/89	115
CT	REVERE TEXTILE PRINTS	AC01	5/31/90	RV	10,000	7/01/87		
DE	NANTICOKE HOMES	AC01	2/14/90	RV	1,000,000			
FL	ANODYNE INC	AC01	3/26/90	RI/FS	750,000	9/21/90	12/18/89	98
FL	CHEM-FORM	UA01	4/17/90	RV	1,000,000	10/04/89	6/13/89	128
FL	LINDSLEY LUMBER	AC01	6/27/90	RV	5,000,000			
FL	MADISON COUNTY SANITARY LANDFILL	AC01	6/11/90	RI/FS	750,000	8/30/90	2/21/90	110
FL	WILSON CONCEPTS OF FLORIDA	AC01	10/19/89	RI/FS	750,000	3/31/89	6/30/89	128
FL	WOODBURY CHEMICAL CO	AC01	1/04/90	RV	50,000	8/30/90	3/14/90	83
GA	AGRICULTURE & NUTRI	AC01	7/06/90	RI/FS	750,000	3/31/89	3/27/90	94
GA	CEDARTOWN INDUSTRIES	AC01	3/08/90	RI/FS	750,000	2/21/90	12/01/89	97
GA	CEDARTOWN MUNICIPAL LANDFILL	AC01	3/30/90	RI/FS	750,000	3/31/89	12/14/89	106
GA	FIRESTONE TIRE & RUBBER CO.	AC01	7/09/90	RI/FS	750,000	10/04/89	3/30/90	91
GA	FIRST MOOREHEAD PCB SITE	UA01	11/17/89	RV	500,000			
GA	HENKEL SITE	AC01	8/03/90	RV	30,000			
GA	WOOLFOLK CHEMICAL WORKS	AC01	4/24/90	RI/FS	750,000	8/30/90	1/10/90	104
IA	ALUMINUM COMPANY OF AMERICA	AC04	7/19/90	RV/RI/FS	1,500,000			
IA	CHEMPLEX CO	AC02	12/28/89	RI/FS	2,000,000	10/15/84	6/01/89	210
IA	EI DUPONT DE NEMOURS & CO	UA02	2/07/90	RV/RI/FS	3,000,000	3/30/90		
IA	MCGRAW EDISON SITE	AC02	9/18/90	RV/RI/FS	1,500,000		4/16/90	155

FY '90 Administrative Orders (Consent and Unilateral) for RI/FS or Removal

State	Site Name	Activity	Date Order Issued	Response Remedies	Estimated Value of Response	NPL Listing	Negotiation Start	Negotiation Duration
IA	MISSISSIPPI RIVER POOL	AC02	7/19/90	RI	3,500,000			
IA	RED OAK CITY LANDFILL	AC01	12/04/89	RI/FS	300,000	3/13/89	11/24/87	761
IA	US NAMEPLATE	UA02	6/20/90	RV/RI/FS	100,000	10/15/84	11/17/89	225
ID	BUNKER HILL	AC03	6/05/90	RV	3,180,000	9/08/83		
ID	BUNKER HILL	UA01	10/24/89	RV	500,000	9/08/83		
ID	KERR-MCGEE CHEM	AC01	9/20/90	RI/FS	750,000	10/04/89	7/03/90	79
IL	SOUTHWEST HIGHWAY DRUMS	AC01	10/11/89	RV	160,000			
IL	YEOMAN CREEK LANDFILL	AC01	12/22/89	RI/FS	750,000	3/31/89	6/30/89	92
IN	GEMEINHARDT CO	AC02	1/23/90	RV	1,000,000			
IN	I.J. COVINGSTON ROAD	AC01	11/13/89	RV	200,000			
IN	TIPPECANOE SAN LANDFILL	AC01	3/08/90	RI/FS	1,500,000	8/30/90	9/29/89	160
KS	ARKLA-HUNNEWELL	AC01	6/26/90	RV	400,000		5/26/89	396
KS	CHEROKEE COUNTY KANSAS	AC01	5/07/90	RI/FS	800,000	9/08/83	10/06/89	213
KS	KANSAS CITY STRUCTURAL	AC01	2/07/90	RV	1,000,000		4/14/89	299
KY	BRANTLEY LANDFILL	AC01	1/10/90	RI/FS	750,000	2/21/90	6/05/89	111
KY	CUSTOM INDUSTRIAL SERVICE	AC01	1/22/90	RV	350,000			
KY	GENERAL TIRE AND RUBBER	AC01	12/20/89	RI/FS	750,000	2/21/90	3/06/89	288
KY	GREEN RIVER DISPOSAL	AC01	5/22/90	RI/FS	750,000	8/30/90		
KY	GREEN RIVER DISPOSAL	UA01	4/13/90	RV	5,000,000	8/30/90		
KY	HARLAN COUNTY DRUM SITE	UA01	2/28/90	RV	30,000			
LA	D.L. MUD INC	AC01	6/20/90	RI/FS		6/24/88	12/11/89	191
LA	TENNESSEE GAS PIPELINE	AC01	3/01/90	RV	2,015,000			
MA	SNPACK LANDFIL	AC01	9/24/90	RI/FS	1,200,000	6/01/86	6/07/90	109
ME	MINI SELF STOR	AC01	8/29/90	RV	80,000			
MI	ALBION SHERIDAN LANDFILL	UA01	3/19/90	RV	76,500	10/04/89		
MI	BUTTERWORTH #2 LANDFILL	AC01	10/26/89	RV	200,000	9/08/83		
MI	CAN FLOW INTERNATIONAL	AC01	10/25/89	RV	928,713			
MI	CHRYSLER CORP	UA01	6/19/90	RV	1,883,113			
MI	FRIGID FOODS	AC01	7/06/90	RV	98,000			
MI	MCI INC.	UA01	6/04/90	RV	831,000			
MI	RIVER ROUGE	AC01	6/06/90	RV	60,000			
MI	VULCAN CINCINATTI INC	AC01	7/31/90	RV	422,525			
MO	BRISTOL STEEL	AC01	8/10/90	RV	600,000		10/27/87	1,025
MO	FARMLAND INDUSTRIES	AC02	11/15/89	RV	50,000		5/10/88	554
MO	KRAMER SITE	UA01	6/18/90	RV	50,000			
MO	MORRISON SITE	AC01	3/30/90	RV	20,000		1/15/90	74

FY '90 Administrative Orders (Consent and Unilateral) for RI/FS or Removal

State	Site Name	Activity	Date Order Issued	Response Remedies	Estimated Value of Response	NPL Listing	Negotiation Start	Negotiation Duration
MO	NGPCA-JACKSON-309	AC02	9/18/90	RV			3/19/90	183
MO	VALLEY PARK TCE	AC01	8/07/90	RV	500,000	6/10/86	6/07/90	61
MT	ANACONDA CO. SMELTER	AC07	3/15/90	RI/FS		9/08/83		
MT	SILVER BOW CREEK	AC04	5/04/90	RI/FS	3,000,000	9/08/83	2/28/89	430
MT	SILVER BOW CREEK	AC05	6/20/90	RV	0	9/08/83		
MT	SILVER BOW CREEK	AC06	6/07/90	RV	600,000	9/08/83		
NC	HARWELL ROAD SEPTIC PIT	UA02	5/14/90	RV	400,000			
NC	JADCO-HUGHES	AC02	7/12/90	RV	500,000	6/01/86		
NC	MUSIC CLUB PESTICIDE SITE	UA03	4/02/90	RV	5,000,000			
NC	NEW HANOVER COUNTY AIRPORT	AC01	6/21/90	RV	200,000	3/31/89	9/22/89	91
ND	OLD MINOT LANDFILL	AC01	8/13/90	RV	200,000	3/24/89	10/25/89	292
NE	HASTINGS GROUNDWATER	AC05	10/26/89	RI/FS	100,000	6/10/86	12/15/86	1,046
NH	PLYWOOD RANCH SITE	AC01	8/29/90	RV	750,000			
NJ	CONUS CHEMICAL	AC01	9/28/90	RV	400,000			
NJ	KAUFFMAN & MINTEER	AC01	8/16/90	RV	100,000	3/30/89	2/21/90	176
NJ	PULVERIZING SERVICES	AC03	3/23/90	RV	750,000			
NV	BUCK'S WAR SUPPLIES SITE	AC01	9/05/90	RV	621,993	*		
NV	PALOMINO VALLEY SITE	UA01	5/25/90	RV	500,000			
NY	BATAVIA LANDFILL	AC02	7/31/90	RV	100,000	9/01/83		
NY	CARROL AND DUBIES	AC01	2/08/90	RI/FS	1,000,000	2/21/90	9/25/89	156
NY	CORTESE LANDFILL	AC02	9/28/90	RI/FS	1,000,000	6/01/86		
NY	ENVIROTECK 2	AC01	5/09/90	RV	5,000,000			
NY	NEWSTEAD SITE	AC02	9/26/90	RI/FS	500,000			
NY	OAKVILLE DRUM	AC01	9/28/90	RV	250,000			
NY	OLEAN WELL FIELD	AC04	11/13/89	RV	50,000	9/01/83		
NY	POLLUTION ABATEMENT SERVICES	AC01	9/28/90	RI/FS	1,000,000	9/01/83	3/23/90	189
NY	PORT WASHINGTON LANDFILL	AC01	4/26/90	RV	100,000	9/01/83		
NY	PREFERRED PLATING	AC01	9/27/90	RI/FS	500,000	6/01/86	1/05/90	265
NY	ROSEN SITE	AC01	1/04/90	RI/FS	1,000,000	3/30/89	7/14/89	174
NY	VOLNEY MUNICIPAL LANDFILL	AC01	9/28/90	RI/FS	1,000,000	6/01/86	3/12/90	199
OH	MOBILE TANK CAR SERVICES	UA01	1/24/90	RV	326,540			
OH	UNION CARBIDE CORP	AC01	9/26/90	RI/FS	2,000,000			
OH	ZIEDRICH DUMP	AC01	12/19/89	RV	200,000		11/09/89	40
PA	BERKS LANDFILL	UA01	8/03/90	RV	414,708	10/04/89		
PA	BROWN'S BATTERY BREAKING	UA02	7/27/90	RV	334,000	6/01/86		
PA	METCOA	UA01	8/17/90	RV	12,000,000			

FY '90 Administrative Orders (Consent and Unilateral) for RI/FS or Removal

State	Site Name	Activity	Date Order Issued	Response Remedies	Estimated Value of Response	NPL Listing	Negotiation Start	Negotiation Duration
PA	OLD BARRETT BUILDING	AC01	12/01/89	RV	250,000			
PA	PENROSE DRUM SITE	UA01	5/08/90	RV	200,000			
PA	PUROLITE CHEMICAL	UA01	10/17/89	RV	250,000			
PA	RECTICON/ALLIED STEEL	AC01	5/11/90	RV	78,500	10/04/89	10/19/89	161
PA	ROYAL CLEANERS	UA01	7/11/90	RV	1,900,000			
PA	WHITMOYER LABS	AC01	9/28/90	RV	1,600,000	6/01/86		
PR	BARCELONETA LANDFILL	AC01	9/28/90	RI/FS	1,000,000	9/01/83		
PR	MURATTI ENVIRONMENT	AC01	5/15/90	RV	237,000			
PR	VEGA ALTA PUBLIC SUPPLY WELL	UA03	9/28/90	RI/FS	1,000,000	9/30/84		
SD	TRI-STATE FIRE	AC01	12/05/89	RV	250,000		9/03/89	80
SD	TRI-STATE REFINING MINT	AC01	1/03/90	RV	175,000		7/01/89	186
TN	FIRST MOOREHEAD PCB SITE	AC01	3/16/90	RV	500,000			
TN	MURRAY OHIO MFG	AC01	3/06/90	RI/FS	750,000	8/30/90		
TN	MURRAY-OHIO DUMP	AC01	3/06/90	RI/FS	750,000	9/01/83		
TN	SAAD JOHN P & SON INC	AC01	4/05/90	RV	50,000			
TN	SAAD JOHN P & SON INC	UA01	11/27/89	RV	50,000			
TN	TENNESE CHEMICAL CO	UA01	9/05/90	RV	10,000			
TX	GRANT ROAD DRUM SITE	AC01	10/06/89	RV	60,000		8/22/88	410
TX	HMM INC.	AC01	3/21/90	RV	937,150			
VA	AVTEX	UA03	2/02/90	RV	800,000	6/01/86	1/29/89	161
VA	AVTEX FIBERS INC	UA04	8/28/90	RV	50,000	6/01/86		
VA	NELSON ELECTRIC CO.	AC01	6/22/90	RV	295,000			
VA	OLD NATIONAL CARBIDE	AC01	11/13/89	RV	350,000			
VI	TU TU WELLFIELD	UA01	3/22/90	RV	300,000		1/05/87	1,348
VT	PARKER LANDFILL	AC01	8/10/90	RI/FS	1,200,000	2/21/90	4/27/90	105
VT	TRANSITOR ELECTRONICS INC.	AC01	9/12/90	RI/FS	700,000	10/04/89	5/11/89	489
WA	HARBOR ISLAND	AC02	9/14/90	RI/FS	750,000	9/08/83	6/12/90	94
WA	NORTHWEST TRANSFORMER	AC02	9/20/90		450,000	6/10/86		
WA	QUEEN CITY FARMS	AC07	5/15/90	RV	100,000	9/21/84	7/26/89	292
WA	U OF W BAGLEY HALL	AC01	9/28/90		50,000			
WI	BETTER BRITE PLATING	UA01	6/01/90	RV	437,031	8/30/90		
WI	FORT HOWARD PAPER CO	AC01	3/26/90	RI/FS	500,000	6/24/88	8/21/89	142
WI	SCHMIDT HOLE NO 2	UA01	3/14/90	RV	31,340			
WV	CHARLESTOWN COAL TAR SITE	AC01	6/01/90	RV	1,900,000			
WV	GLEN MORGAN DRUM DUMP	AC01	11/21/89	RV	60,000			
WV	J F & N -PCB SITE	AC01	4/10/90	RV	800,000			

FY '90 Administrative Orders (Consent and Unilateral) for RI/FS or Removal

State	Site Name	Activity	Date Order Issued	Response Remedies	Estimated Value of Response	NPL Listing	Negotiation Start	Negotiation Duration
WV	LCP CHEMICALS	AC01	12/08/89	RV	500,000			
WV	NITRO MUN LANDFILL	AC04	4/20/90	RV	1,000,000			
Total:					128,001,113			

UNILATERAL ADMINISTRATIVE ORDERS

SENATOR NICKLES: You also state in the report on FY 1990 Superfund Successes that use of Unilateral Administrative Orders (UAOs) resulted in stepped up PRP financing in FY 1990. Please provide a breakdown of the sites involved, noting in each case when the site was listed, when PRP negotiations began and how long they lasted prior to issuance of the UAO. Please also provide for each UAO the names of the PRPs cited, the number of PRPs not cited, and any information you have on whether there is continuing negotiation and/or litigation between those named in the UAO and those not named. Please provide the same data for FY89. Also, in case where PRPs have refused to comply with UAOs in those years, please summarize their main reasons for not complying.

ANSWER: A list of UAOs issued in FY 89 for RD/RA are provided on Insert A. The same information for FY 90 is provided on Insert B. A list of UAO's issued in FY 89 for other work (ie. Removals, RI/FS) is provided on Insert C. The same information for FY 90 UAOs in provided on Insert D. The attached reports also contain the following information where applicable:

- NPL listing date
- Negotiation start date
- Negotiation duration
- Number of PRPs issued UAO (FY 90 only)
- Number of PRPs not issued UAO (FY 90 only)
- Initial compliance status

The inserts do not contain the following data: number of PRPs not cited in FY 89 UAOs, names of PRPs cited in FY 89 and FY 90 UAOs, and the rationale for non-compliance with UAOs. This information is tracked case by case within the Office(s) of Regional Counsel.

FY '89 Unilateral Orders Issued for RD/RA

State	Site Name	Activity	Date Order Issued	Response Remedies	NPL Listing	Negotiation Start	Negotiation Duration	# of RP's Issued UAO	# of RP's Not Issued UAO	Compl
AZ	INDIAN BEND WASH AREA	UA02	7/27/89	RD/RA	9/01/83	3/02/89	147			N
AZ	TUSCON INTL AIRPORT	UA01	1/24/89	RD/RA	9/01/83	7/11/88	197			Y
CO	CALIFORNIA GULCH	UA02	3/29/89	RD/RA	9/08/83	4/05/88	358			Y
FL	SYDNEY MINE SLUDGE PONDS	UA01	5/24/89	RV/RD	10/04/89	2/02/89	111			Y
IN	NINTH AVENUE DUMP	UA01	12/07/88	RD/RA	9/08/83	7/08/88	152			Y
IN	NINTH AVENUE DUMP	UA02	8/17/89	RA	9/08/83	3/17/89	153			Y
MA	IRON HORSE PARK	UA01	9/08/89	RD/RA	9/01/84	7/14/88	399			Y
MD	LIMESTONE ROAD SITE	UA01	9/04/89	RI/FS/RD/RA	9/01/83					N
MI	MASON COUNTY LANDFILL	UA01	6/27/89	RD/RA	9/08/83					Y
MS	FLOWOOD SITE	UA01	9/12/89	RD/RA	9/21/84	3/17/89	179			N
NC	CHEMTRONICS INC	UA02	3/22/89	RD	9/01/83	6/22/88	273			Y
NC	NATIONAL STARCH & CHEMICAL CO	UA01	7/27/89	RD	10/04/89	3/27/89	122			Y
NJ	ASBESTOS DUMP	UA01	9/25/89	RD/RA	9/01/83	11/25/88	304			Y
NJ	EWAN PROPERTY	UA01	9/25/89	RD/RA	9/01/84	11/28/88	301			Y
NM	SOUTH VALLEY	UA05	7/03/89	RD/RA	9/08/83	12/13/88	202			Y
NM	SOUTH VALLEY	UA06	7/03/89	RA	9/08/83	12/13/88	202			Y
NM	UNITED NUCLEAR CIRP	UA01	6/29/89	RD/RA	9/08/83	11/10/88	231			Y
NY	HUDSON RIVER PCBS	UA01	9/27/89	RA	9/01/84	6/09/89	110			Y
NY	MARATHON BATTERY	UA01	3/26/89	RV/RD/RA	9/01/83	11/21/89				Y
OH	ALLIED CHEM & IRONTON	UA01	3/09/89	RD/RA	9/08/83	8/08/88	190			Y
OH	BOWER'D LANDFILL	UA01	6/30/89	RD/RA	9/08/83					N
OH	FIELDS BROOK	UA01	3/22/89	RI/FS/RD	9/08/83	11/15/86	858			Y
OK	COMPASS INDUSTRIES	UA01	3/29/89	RA	9/21/84					Y
PR	UPJOHN FACILITY	UA01	3/30/89	RD/RA	9/01/84	11/22/88	120			Y
PR	VEGA ALTA PUBLIC SUPPLY WELLS	UA02	3/22/89	RD/RA	9/30/84					Y
TX	ODESSA CHROMIUM #1	UA01	7/29/89	RD/RA	6/10/86					N
VA	AVTEX	UA01	6/30/89	RD/RA	6/01/86	1/20/89	161			Y

Note: Orders listed on this report may not be in compliance.
Compliance status indicates whether the order was initially
compiled with, not current status.

FY '90 Unilateral Orders Issued for RD/RA

State	Site Name	Activity	Date Order Issued	Response Remedies	NPL Listing	Negotiation Start	Negotiation Duration	# of RP's Issued UAO	# of RP's Not Issued UAO	Compl
AR	GURLEY PIT	UA02	1/01/90	RA	9/08/83			3		N
AZ	PHOENIX-GOODYEAR AIRPORT	UA06	9/10/90	RD/RA	9/08/83	4/02/90	161	1		Y
CA	BECKMAN INSTRUMENTS	UA01	9/28/90	RD/RA	6/01/86	4/16/90	165	1		Y
CA	IRON MOUNTAIN MINE	UA01	3/29/90	RA	9/01/83	1/15/90	73	2		Y
CA	KOPPERS CO INC	UA02	9/28/90	RD/RA	9/01/84	4/23/90	158	2		Y
FL	CITY INDUSTRIES	UA02	9/20/90	RD/RA	10/04/89	4/20/90	153	32	168	N
FL	DUBOSE OIL PRODUCTS	UA01	9/14/90	RD/RA	6/10/86	3/30/90	104		19	N
FL	SYDNEY MINE SLUDGE PONDS	UA02	7/10/90	RD/RA	10/04/89	2/02/89	111	12	41	Y
FL	ZELLWOOD GROUNDWATER	UA01	7/10/90	RD/RA	9/08/83	3/14/90	118	6	4	N
IL	CROSS BROTHERS PAIL RECY.	UA01	2/08/90	RD/RA	9/08/83	7/26/89	82	6	9	Y
IL	WAUCONDA SAND AND GRAVEL	UA01	12/19/89	RD/RA	9/08/83	5/05/88	593	17	10	Y
IN	MIDCO I SITE	UA01	11/15/89	RD/RA	9/08/83	5/09/89	132	26	123	N
IN	MIDCO II	UA01	11/15/89	RD/RA	6/10/86	5/09/89	132	18	119	N
KS	CHEROKEE COUNTY	UA01	6/20/90	RD/RA	9/08/83	1/05/90	166	2	11	Y
KY	SMITH'S FARM BROOKS	UA01	3/14/90	RD/RA	6/10/86			36	22	Y
MA	NORWOOD PCBS	UA01	8/08/90	RD/RA	6/01/86	3/22/90	139	7	6	Y
MI	OTT/STORY/CORDOVA CHEM	UA01	3/12/90	RD/RA	9/08/83			5		N
MI	CLARE WATER SUPLY	UA01	9/14/90	RD/RA	9/21/84	9/14/90		4		Y
MI	HEDBLUM INDUSTRIES	UA01	1/04/90	RD/RA	9/08/83	8/16/89	71	4	2	Y
MI	KYSOR INDUSTRIAL CORP	UA01	5/16/90	RD/RA	10/04/89					Y
MI	NORTHERNAIRE PLATING	UA01	5/16/90	RD/RA	9/08/83			9		Y
MN	ARROWHEAD REF CO	UA01	3/26/90	RD/RA	9/21/84			11	136	Y
MO	SOLID STATE CIRCUITS	UA02	6/20/90	RD/RA	6/10/86	12/13/89	189	1	13	Y
NC	ABERDEEN PESTICIDE DUMPS	UA02	3/14/90	RD/RA	3/31/89	12/21/89	83	4	19	Y
NE	HASTINGS GROUNDWATER	UA03	9/28/90	RD/RA	6/10/86	12/14/88	653	2	2	Y
NH	AUBURN ROAD LANDFILL	UA02	8/31/90	RD/RA	9/01/83	4/14/89	504	9	22	N
NH	KEEFE ENVIRONMENTAL	UA01	6/12/90	RA/OM	9/01/83			2	148	N
NH	SOUTH MUNICIPAL WATER	UA01	6/19/90	RD/RA	9/01/84	3/06/90	105	2		N
NJ	EWAN PROPERTY	UA02	3/27/90	RD/RA	9/01/84	11/28/88	301	19	6	Y
NJ	KIN-BUC LANDFILL	UA01	9/21/90	RI/FS/RD/RA	9/01/83			12	388	Y
NJ	NASCOLITE CORP.	UA01	9/24/90	RD/RA	9/01/84	9/16/88	196	9	1	Y
NJ	SCIENTIFIC CHEMICAL PROCESSING	UA03	9/28/90	RD/RA	9/01/83				115	Y
NY	BYRON BARREL AND DRUM	UA02	9/21/90	RD/RA	6/01/86	7/19/90	68	4	19	Y

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FY '90 Unilateral Orders Issued for RD/RA

State	Site Name	Activity	Date Order Issued	Response Remedies	NPL Listing	Negotiation Start	Negotiation Duration	# of RP's Issued UAO	# of RP's Not Issued UAO	Compl
NY	FOREST GLEN	UA02	3/09/90	RA	11/21/89	11/29/89	100			N
NY	KATONAH MUNICIPAL WELL	UA02	5/03/90	RA	6/01/86	1/09/89	115	4	3	N
OH	ALSCO ANACONDA	UA01	12/28/89	RD	6/10/86	5/15/89	184	2		Y
OH	BIG D CAMPGROUND	UA01	3/27/90	RD/RA	9/08/93	11/20/89	91	2	1	Y
PA	DORNEY ROAD SITE	UA01	9/28/90	RD/RA	9/01/84	9/02/88	756	8	21	Y
PA	HENDERSON ROAD SITE	UA01	8/10/90	RD/RA	9/01/84	7/15/89	391	10	10	Y
PA	STRASBURG LANDFILL	UA01	10/17/89	RD/RA	3/31/89	5/01/89	77	3	7	Y
RI	LANDFILL RESOURCE AND RECOVERY	UA01	6/29/90	RD/RA/OM	9/01/83	9/20/90	458	28	92	N
TX	MOTCO INC	UA01	6/11/90	RD	9/08/83	12/30/89	163	7	23	Y
WV	ORDNANCE WORKS DISPOSAL	UA01	6/20/90	RD/RA	6/01/86	6/30/89	355	4	5	Y

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FY '89 Unilateral Orders Issued for Removal or RI/FS

State	Site Name	Activity	Date Order Issued	Response Remedies	NPL Listing	Negotiation Start	Negotiation Duration	# of RP's Issued UAO	# of RP's Not Issued UAO	Compl
AL	BAY OIL SERVICES	UA01	11/28/88	RV						Y
AL	MOBILE BAY OIL	UA01	11/29/88	RV						N
AZ	PHOENIX GOODYEAR AIRPORT	UA05	2/06/89	FS	9/01/83					N
CA	ADVANCED MINI STORAGE	UA01	7/19/89	RV						Y
CA	BRIDGES AND SON TRUCKING	UA01	8/02/89	RV						N
CA	FRENCH CAMP SITE	UA01	5/12/89	RV						Y
CA	PACIFIC INTERMEDIATES	UA01	4/12/89	RV						N
CA	PORT OF LOS ANGELES	UA01	5/21/89	RV						Y
CA	PRATTER DRUM SITE	UA01	5/05/89	RV						N
CO	DENVER TOLUENE	UA03	12/15/88	RV						Y
CO	SAND CREEK INDUSTRIAL	UA02	3/23/89	RV	9/08/83					N
CO	SAND CREEK INDUSTRIAL	UA03	3/23/89	RV	9/08/83					Y
CO	SAND CREEK INDUSTRIAL	UA04	3/23/89	RV	9/08/83					Y
CO	SILVER BOW CREEK	UA02	6/05/89	RV	9/08/83	8/25/88	218			Y
FL	CSX SULFURIC ACID SPILL	UA01	6/12/89	RV						Y
FL	STANDARD AUTO BUMPER	UA01	4/19/89	RV	10/04/89	11/22/89	98			Y
GA	C & H TRANSPORTATION	UA01	6/14/89	RV						Y
GA	CHEMERSOL INC	UA01	11/04/88	RV						Y
GA	NATIONAL SMELTING & REFINING	UA01	6/16/89	RV						Y
GA	STILLHOUSE ROAD	UA01	2/27/89	RV						Y
IA	EI DUPONT DE NEMOURS	UA01	7/03/89	RV/RI/FS	8/30/90	1/31/89	153			Y
IL	CHICAGO INDUSTRIAL WASTE	UA01	4/19/89	RV						N
IL	ILADA ENERGY CO	UA01	2/08/89	RV	10/04/89	12/21/88	180			Y
IN	CONTINENTAL CHEMICAL CO	UA02	12/21/88	RV						N
IN	ENGINUITY INC	UA01	5/05/89	RV						N
IN	FISHER CALO	UA01	12/13/88	RV	9/08/83					N
IN	I.J. COVINGTO ROAD	UA01	8/29/89	RV						Y
IN	TRIPLE J MOTORS SITE	UA01	8/25/89	RV						N
IN	WESTINGHOUSE ELECTRIC	UA01	5/03/89	RV						Y
IN	WESTVILLE OIL CO	UA01	9/18/89	RV						N
KS	CHEMICAL COMMODITIES	UA01	4/24/89	RV		2/02/89	81			N
KY	CALLAWAY DUMP	UA01	11/30/88	RV						Y
LA	AMERICAN CREOSOTE	UA02	2/13/89	RV						N

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FY '89 Unilateral Orders Issued for Removal or RI/FS

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MA	BROCKTON GAS WORKS	UA01	5/03/89	RV						N
MD	ORDNANCE PRODUCTS	UA01	12/30/88	RV						Y
MI	BROOKS FOUNDRY	UA02	6/01/89	RV						N
MI	CANNELTON INDUSTRIES	UA01	5/25/89	RV	8/30/90					N
MI	GROUP EIGHT TECHNOLOGY	UA01	8/28/89	RV						N
MI	ST JOHN'S INC	UA01	3/16/89	RV						N
MT	SILVER BOW CREEK	UA01	3/31/89	RV	9/08/83	8/25/88	218			Y
NC	F C X	UA01	12/01/88	RV	3/31/89					N
NC	RED CAP DOG FOOD	UA01	3/17/89	RV						N
NC	SOUTHERN DESK DRUMS	UA01	3/15/89	RV						Y
NJ	B & C TOWING	UA01	9/20/89	RV						Y
NJ	IMPERIAL OIL/CHAMPION CHEMICAL	UA01	9/28/89	RV	9/01/83					Y
NJ	KING OF PRUSSIA	UA01	7/19/89	RV						N
NJ	SWOPE OIL & CHEMICAL	UA04	3/31/89	RI/FS	9/01/83					N
NM	PAGANO SALVAGE	UA01	6/08/89	RV	6/24/88					N
NM	PREWITT	UA01	3/23/89	RV	6/24/88					Y
NV	RENO BARREL & DRUM	UA01	3/17/89	RV						Y
NY	FOREST GLEN	UA01	5/19/89	RV	11/21/89	11/29/89	77			N
NY	ROCKET FUEL SITE	UA01	9/28/89	RI/FS	7/01/87	8/26/88	398			Y
NY	ROSEN SITE	UA02	4/04/89	RV	3/30/89	7/14/89	174			Y
NY	SOLVENT SAVERS	UA01	9/20/89	RV	9/01/83					Y
OH	DENUNE/WEST FALL	UA01	8/31/89	RV						Y
OH	GLAZE PLATING	UA01	2/10/89	RV						N
OH	REILLY TAR & CHEM	UA01	3/29/89	RI/FS	8/30/90	9/26/88	113			N
SC	CAROLINA CHEMICAL	UA01	5/15/89	RV						N
SC	COLUMBIAL ORGANICS	UA01	4/28/89	RV						Y
SC	REYNOLDS ROAD	UA01	4/27/89	RV						Y
SD	TRI-STATE REFINING	UA01	7/13/89	RV						N
TN	OLIN CHEMICALS	UA01	12/16/88	RV						Y
TX	SMITH COMPANY	UA01	3/03/89	RV						N

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FY '90 Unilateral Orders Issued for Removal or RI/FS

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AZ	APACHE POWDER CO	UA01	10/05/89	RI/FS	8/30/90					Y
CA	APODACA & SONS PLATING	UA01	9/12/90	RV						Y
CA	FRESNO SAN LANDFILL	UA01	9/19/90	RV	10/04/89	6/20/90	72			N
CA	JOHN ALEXANDER RESEARCH	UA01	1/05/90	RV						Y
CA	LOMPOC PLATING	UA01	4/13/90	RV						N
CA	MCCOLL	UA02	5/30/90	RI/FS	9/01/83	1/26/90	124			N
CA	MODESTO GROUNDWATER	UA01	9/24/90	RV	3/31/89					N
CA	SAN FERNANDO CALLEY	UA01	8/30/90	RV	6/01/86					N
CA	UNITED HECKATHORN	UA01	9/28/90	RV	3/14/90					Y
CO	ROCKY FLATS	UA01	9/27/90	RV						N
CT	RAYBESTOS MEN FIELD	UA01	2/07/90	RV						N
FL	AKO BAYSIDE	UA01	8/27/90	RV						N
FL	CHEM-FORM	UA01	4/17/90	RV	10/04/89	6/13/89	128			Y
GA	CLARK BROTHERS WAREHOUSE	UA01	3/30/90	RV						N
GA	FIRST MOOREHEAD PCB SITE	UA01	11/17/89	RV						Y
GA	SYCAMORE PESTICIDE SITE	UA01	7/15/90	RV						N
IA	EI DUPONT DE NEMOURS & CO	UA02	2/07/90	RV/RI/FS	3/30/90					Y
IA	MID-AMERICA TANNING CO	UA01	12/29/89	RV/RI/FS	3/30/89	3/31/89	273			N
IA	RELIANCE BATTERY	UA01	6/29/90	RV		4/27/90	63			N
IA	RELIANCE BATTERY	UA02	7/03/90	RV		4/27/90	67			N
IA	US NAMEPLATE	UA02	6/20/90	RV/RI/FS	10/15/86	11/17/89	225			Y
ID	BUNKER HILL	UA01	10/24/89	RV	9/08/83					Y
IL	LIQUID DYNAMICS	UA01	3/21/90	RV						N
IN	GREAT LAKES PAVINGS	UA01	10/06/89	RV						N
KY	GREEN RIVER DISPOSAL	UA01	4/13/90	RV	8/30/90					Y
KY	HARLAN COUNTY DRUM SITE	UA01	2/28/90	RV						Y
LA	MAIN PRO DRUM SITE	UA01	6/29/90	RV						N
MA	BROCKTO GAS WORKS I	UA02	9/28/90	RV						N
MA	BROCKTON GAS WORKS I	UA01	6/07/90	RV						N
MA	BROCKTON GAS WORKS II	UA02	8/01/90	RV						N
ME	VAN BUREN	UA01	9/28/90	RV						N
MI	ALBION SHERIDAN LANDFILL	UA01	3/19/90	RV	10/04/89					Y
MI	CHRYSLER CORP	UA01	6/19/90	RV						Y

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MI	CIW ROMULUS SITE	UA01	11/28/89	RV		10/19/89	40			N
MI	MACK AVENUE DUMPS	UA01	1/12/90	RV						N
MI	MCI INC.	UA01	6/04/90	RV						Y
MO	BLUFF ELECTRIC	UA01	6/29/90	RV		3/23/90	98			N
MO	KRAMER SITE	UA01	6/18/90	RV						Y
MT	MCLAREN MILL	UA01	8/23/90	RV		2/09/90	195			N
MT	MCLAREN MILL	UA02	8/23/90	RV		2/09/90	195			N
NC	GOAT PASTURE ROAD	UA01	11/07/89	RV						N
NC	HARWELL ROAD SEPTIC PIT	UA02	5/14/90	RV						Y
NC	MUSIC CLUB PESTICIDE SITE	UA03	4/02/90	RV						Y
NH	RODGERS MOBILE HOME PARK	UA01	2/21/90	RV						N
NJ	HIGGINS FARM	UA01	3/20/90	RV	3/30/89					N
NV	BUCK'S WAR SURPLUS	UA01	6/19/90	RV						N
NV	PALOMINO VALLEY SITE	UA01	5/25/90	RV						Y
OH	MOBILE TANK CAR SERVICES	UA01	1/24/90	RV						Y
OK	AUTOMATION TECHNIQUES	UA01	6/29/90	RV		10/21/88	618			N
OK	COYLE DRUMS	UA01	3/01/90	RV						N
PA	BERKS LANDFILL	UA01	8/03/90	RV	10/04/89					Y
PA	BROWN'S BATTERY BREAKING	UA02	7/27/90	RV	6/01/86					Y
PA	E.Z. CHEMICAL	UA01	1/12/90	RV						N
PA	HISTAND'S SUPPLY	UA01	6/08/90	RV						N
PA	METCOA	UA01	8/17/90	RV						Y
PA	PENROSE DRUM SITE	UA01	5/08/90	RV						Y
PA	PUROLITE CHEMICAL	UA01	10/17/89	RV						Y
PA	ROYAL CLEANERS	UA01	7/11/90	RV						Y
PR	VEGA ALTA PUBLIC SUPPLY WELL	UA03	9/28/90	RI/FS	9/30/84					Y
SD	TRI-STATE REFININGDI	UA02	10/04/89	RV		7/01/89	94			N
TN	SAAD JOHN P & SON INC	UA01	11/27/89	RV						Y
TN	TENNESE CHEMICAL CO	UA01	9/05/90	RV						Y
TX	GRANT ROAD DRUM	UA01	10/06/89	RV		8/22/88	410			N
TX	TEX-TIN CORP	UA01	12/26/89	RV	6/24/88					N
UT	EKOTEK	UA01	11/08/89	RV		6/12/89	149			N
VA	AVTEX	UA03	2/02/90	RV	6/01/86	1/29/89	161			Y
VA	AVTEX FIBERS INC	UA02	10/31/89	RV	6/01/86					N

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VA	AVTEX FIBERS INC	UA04	8/28/90	RV	6/01/86					Y
VI	TU TU WELLFIELD	UA01	3/22/90	RV		1/05/87	1,348			Y
WA	WYCKOFF CO	UA01	1/09/90	RV						N
WI	BETTER BRITE PLATING	UA01	6/01/90	RV	8/30/90					Y
WI	SCHMIDT HOLE NO 2	UA01	3/14/90	RV						Y

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UNILATERAL ADMINISTRATIVE ORDERS

SENATOR NICKLES: Once a UAO is signed for RD/RA, does actual work begin or is there a period of further negotiations over the scope of work?

ANSWER: Once the UAO is signed, an RD/RA workplan is developed by the respondents, submitted to EPA for review and comment, revised accordingly and implemented. This results in a short term delay between UAO issuance and actual design work being initiated.

DEFINITION OF CLEANUP STARTS AT SITES

SENATOR NICKLES: When you say an RI/FS has started at a site, does this mean that an RI/FS for the entire site has begun or do you count a start on each operable unit as a separate item? If the latter, aren't you, in effect, artificially inflating the figures since the start of an RI/FS, RD, or RA on one unit may not mean that you are, in fact close to completing the entire cleanup at that site?

ANSWER: As used in the report, Remedial Investigation /Feasibility Study (RI/FS) "starts" refers to operable units, not sites, but this does not "artificially inflate the figures".

The simplest Superfund remedial efforts include an RI/FS, a Remedial Design (RD), and a Remedial Action (RA). Together, these events will typically require at least five years for completion. In addition, most sites involve more than one operable unit (1.8 OUs per site is the planning assumption being used), each requiring a RI/FS, RD, and RA. Subsequent operable units may run either concurrently or consecutively with each other or the first operable unit.

To make communication easier, Superfund has developed some naming conventions. A site is "started" when the first RI/FS is begun and "completed" when the last RA is finished. Any number or combination of additional events can happen in between.

SENATOR NICKLES: The December, 1990 "Progress Toward Implementing Superfund Fiscal Year 1989" report refers to significant increases in the number of RI/FS, RD, and RA "starts." Please define what you mean by a "start." Are you referring to actual work performed by contractors or does this include negotiation with PRPs over scope, nature, and financing of such work?

ANSWER: The term "start" refers to the date on which the Agency obligates funding for the project. PRP negotiations and other enforcement activities are identified separately.

TRANSACTION COSTS

SENATOR NICKLES: Clearly, EPA has moved more aggressively to raise money for cleanups and you are to be commended for that effort. I assume this has reduced to some extent EPA's so-called "transaction costs" and has also allowed you to exit from the process more quickly. But how has your emphasis on enforcement affected transaction costs imposed on others in the system? Have they been reduced? Can you document any reduction in PRP costs associated with allocation of liability or are these PRP transaction costs largely unaffected?

ANSWER: No one knows the current extent of transaction costs incurred by either the Federal government or the private sector by the Superfund liability scheme. EPA is helping to fund a study of private sector transaction costs by the RAND Corporation. Until data from this study are collected and analyzed, it would be premature to claim that transaction costs are excessive, especially in comparison with the costs of the remedies involved. As a general matter, however, EPA seeks to minimize transaction costs; EPA notes that PRPs are in the best position to reduce such costs by cooperating in settlements for cleanup.

Clearly, EPA's increased emphasis on enforcement has probably raised PRP transaction costs in general, compared to a program funded largely by the Superfund under governmental management. EPA continues, however, to implement settlement and other enforcement tools to try to facilitate the process and minimize transaction costs for all parties concerned. Among these tools are model orders and consent decrees, greater use of de minimis authorities, improved and more timely PRP searches, and development of waste-in lists to allocate responsibility for wastes at a site.

SENATOR NICKLES: The Information Network for Superfund Settlements said in its February 1 newsletter that "EPA's current approach of issuing Section 106 orders to only a 'select' group of PRPs at each site virtually guarantees that those PRPs will end up suing the non-recipients to obtain contribution. And the recent 8th Circuit ruling awarding attorney's fees to a private party CERCLA plaintiff will surely intensify the trend toward litigation." This suggests that the enforcement policy may actually be increasing private party transaction costs. Please comment. Please also comment on what steps you are taking to minimize transaction costs incurred by both EPA and PRPs.

ANSWER: The Information Network's allegation about EPA's enforcement policy with regard to issuance of 106 orders is inaccurate. It is not Agency policy to issue such orders to a "select" group of PRPs at each site. Rather, the policy, as described in existing guidance, is to issue orders to the largest manageable number of PRPs at a site. More importantly, EPA must be sure that the orders it issues are enforceable; hence, we only issue them to PRPs against whom we have adequate evidence of liability, and who are known to be financially viable, hence capable of undertaking the action ordered.

Liability and viability are in fact the key factors in determining which PRPs are to receive orders, according to an evaluation we recently conducted of FY 1990 orders for remedial action. Foremost is the strength of the liability case: this is the most frequent reason for issuing orders to fewer PRPs than were given either general or special notice. Far less frequently, financial viability of PRPs and their volumetric contribution are factors in determining whether a given PRP should receive an order. Volumetric contribution comes into play primarily at sites with large numbers of PRPs, where it would be administratively impractical to issue orders to, say, one hundred and fifty PRPs, the large proportion of which contributed very small amounts of waste. Preliminary data suggests also that the PRPs who are issued orders are generally responsible for a large majority of the waste at the site or operable unit covered by the order.

The Federal government is responsible for ensuring that its enforcement actions can stand up in court, and that it does not unfairly put the burden of cleanup on small contributors. While private parties are not subject to these constraints, such factors as liability evidence and financial viability would presumably also affect their decisions on suits for contribution. Hence, it is not clear that EPA's policy in issuing orders should cause an increase in PRP claims for contribution from third parties, with a concomitant increase in transaction costs.

It should also be recognized that EPA's broader enforcement policy is to seek settlements voluntarily from PRPs. Generally, orders are only issued when PRPs are unwilling to settle to do the work. As a result, the number of settlements increased steadily from FY 87 to FY 90 and continue to outnumber UAOs by about two to one.

EPA is taking specific steps to minimize transaction costs. We are trying to enhance the use of de minimis authorities so that small parties can settle early and avoid transaction costs. We are also continuing to enhance our capability for doing PRP searches, putting an emphasis on timely and thorough searches, and we have recently issued guidance on developing waste-in information to allocate responsibility for wastes at a site. We have developed or are developing model orders and consent decrees to speed up the government's work and (in the case of decrees) facilitate settlements. Finally, we are evaluating the effect that non-settlors have on the program, and developing strategies for minimizing their incidence.

EVALUATION OF TRANSACTION COSTS

SENATOR NICKLES: In your report entitled "Reducing Risk: Setting Priorities and Strategies for Environmental Protection," you state that "EPA should target its environmental protection efforts on the basis of opportunities for the greatest risk reduction." In that report, and other speeches and testimony, you have criticized the "crisis management" approach to environmental policy and have called for "a re-evaluation of the nation's environmental agenda" with an emphasis on an "aim before we open fire" approach to policy. Based on what we know about the costs imposed on society, both the public and private sector, by Superfund, is it not appropriate to re-evaluate how this program is working and whether there is a better, more efficient way to achieve the still important program goals? Doesn't it make sense to evaluate public and private sector transaction costs, including the indirect cost to society caused by diversion of resources and manpower to allocation of Superfund liability, as part of such a re-evaluation?

ANSWER: In enacting and twice reauthorizing CERCLA, Congress has affirmed the principle that those responsible for the wastes that cause contamination should be responsible for cleaning them up. The liability scheme in CERCLA, and the broad enforcement and settlement tools that it gives the Federal government, are based on this principle. EPA's Superfund Management Review of 1989 examined the operation of the program and made many recommendations for improvement, including enhancing the use of enforcement in the program. As a result, we are seeing an increasing number of settlements and orders in compliance in the past few years.

No one knows the current extent of transaction costs incurred by either the Federal government or the private sector by the Superfund liability scheme. EPA is helping to fund a study of private sector transaction costs by the RAND Corporation. Until data from this study are collected and analyzed, it would be premature to claim that transaction costs are excessive, especially in comparison with the costs of the remedies involved. As a general matter, however, EPA seeks to minimize transaction costs; EPA notes that PRPs are in the best position to reduce such costs by cooperating in settlements for cleanup.

EPA believes that the CERCLA liability scheme provides benefits beyond the allocation of responsibility for cleanup of past disposal. It is a strong deterrent that affects the waste management practices of all parties in the present. To change the liability scheme may appear to promote certain efficiencies in the short term, but may actually cause new Superfund sites to be created that would have long-term costs and environmental damages.

NEW ENFORCEMENT POLICY

SENATOR NICKLES: As I understand it, a negotiated consent decree typically requires PRPs to waive many of their legal rights and imposes very stiff penalities on them for failure to meet the deadlines laid down in the decree. In contrast, when you issue a Unilateral Administrative Order, PRPs do not waive any legal rights to subsequently challenge the remedy called for in the ROD. If this is the case, isn't it possible that the new enforcement strategy may result in more apparent progress in the near term but actually delay performance of the RA as PRPs exercise their rights later on?

ANSWER: Under CERCLA sections 106 and 113, EPA may issue unilateral administrative orders (UAOs) to PRPs and PRPs must respond to the orders (lacking a sufficient cause defense) before exercising legal rights to challenge the order. In other words, judicial review of the order or the remedy required is barred prior to enforcement action by the Agency.

Once a PRP has completed the action required in an order, the law allows the PRP to petition the Agency for reimbursement of its response costs. The petition must be based on a showing that the PRP is not liable at the site in question, or that the response action selected by the Agency was arbitrary or capricious or otherwise not in accordance with law. If the PRP challenges the remedy, the case will be considered on the basis of the administrative record established by EPA.

Because of the bar on pre-enforcement review, the performance of the remedial action (or other action ordered) will not be delayed by a PRP's exercising its rights. We do anticipate more reimbursement petitions to be filed under CERCLA section 106b because of the increased use of UAOs. But in order for the Agency or a court to consider such a petition, the remedy must already be completed. Where a PRP refuses to comply with a UAO without sufficient cause, the Agency may collect daily penalties and treble damages.

EXPLANATION OF SUPPORT CONTRACTS

SENATOR NICKLES: You indicate that EPA awarded 81 contracts with a total value of $4.0 billion in fiscal year 1989. Of these, enforcement support totalled $935 million and remedial action support totaled $3.9 billion. Please explain what an enforcement support contract is. Please provide details on the remedial action support contracts, such as how many involve oversight of work being performed by PRPs and the dollar value of these contracts.

ANSWER: Enforcement contracts consist of a prime contractor and many specialty subcontractors capable of providing a wide range of technical skills and services directed at supporting enforcement activities undertaken principally at the Regional level. Presently, the Agency has eight prime enforcement support contractors. These contractors support the Enforcement Program in four geographic zones, two prime contractors per each zone. The total potential value of these eight contracts (i.e. with all contract cost options exercised) totals $935 million. This is the potential amount to be expended and not the amount expended in 1989. The period of performance of these contracts is five years with the option to terminate at any time within that period. There is no minimum base expenditure requirement associated with these contracts.

The range of potential activities to be conducted by these contracts consists of the following: PRP searches, conduct of private investigations, negotiation support, litigation support, cost recovery support, administrative record and records management support, data management and training.

Contracts which involve PRP oversight apply to the following: RI/FS activities, removal activities, remedial design activities, remedial action or implementation activities, operation and maintenace, public health evaluations/environmental risk assessments and community relations activities.

REMEDIAL ACTION SUPPORT CONTRACTS

SENATOR NICKLES: To what extent does your need to prepare a "litigation-proof" work product increase the cost of remedial action support contracts?

ANSWER: Currently, two work products performed by the Agency in the Superfund program that require "litigation-proof" measures are the PRP search and the remedy selection.

The PRP search is the basis for enforcement activity at a site and is the primary means for assessing PRP liability. Because the PRP search could potentially be used as the basis for litigation, this work product is prepared with a focus on the need for a "litigation-proof" document. In addition, the investment in high quality PRP searches and associated enforcement support (i.e. volumetric ranking, transactional database) results in more definitive assignment of liability, thus reducing the component of negotiations associated with liability.

The remedy selection process also carries the same need for quality as the PRP search. At any time, the Agency can be required to justify the remedy selection to the PRPs or the general public, regardless of the potential for litigation.

TIMETABLES FOR COMPLETION OF WORK

SENATOR NICKLES: Your report refers to various projects being on or behind schedule. Please explain what you mean. When are the schedules set? When the site is listed or once you successfully negotiate for performance of the RI/FS or RD? In other words, if a site came on the list in 1983 and at that time you developed a timetable for completion of each work phase, is that original estimate the basis for your determination of whether work is on time or is it based on subsequent revisions to that schedule?

ANSWER: The determination of whether work is on time is based on subsequent revisions to an original schedule. When a site is listed on the NPL, it is possible to establish interim schedules for future pipeline events. Once the RI/FS is completed, more emphasis is placed on estimating the schedules for future events. However, these interim schedules are subject to change and often do change as a result of better information.

QUESTIONS SUBMITTED BY SENATOR BYRD

FUNDING FOR CANCER REGISTRY AND NICS

SENATOR BYRD: Over the last two years, I have continued to express my serious concern about the incidence of cancer in the Kanawha Valley area of West Virginia which has one of the greatest concentrations of chemical industry in the United States. Last year, I brought to your attention the existence of a 37-year Cancer Registry at the Charleston Area Medical Center (CAMC). This data reflects 97 percent to 99 percent of all cancers diagnosed in Kanawha Valley. The National Institute for Chemical Studies (NICS), concluded that an epidemiologic analysis of the data contained in this registry could help define the cause and effect relationship between cancer incidence and geographic proximity to the chemical industry. Last year, an amount of $55,000 was needed to complete an analysis of this registry, including the services of an epidemiologist and data processing support.

In response to my question at last year's hearing, the Committee was informed that funds have been identified by EPA for this project and that an agreement has been reached within the Agency to fund it during Fiscal Year 1991. Subsequently, the NICS received the application, and the funding package was prepared. The Committee was also informed that the grant was awarded to NICS in April 1990, and the scheduled date for completion of the project plan for the 37-year cancer registry was March 31, 1991. Are there any preliminary findings which can be shared with the Committee at this point? What are they? Is any follow-up funding required in FY 1992? If so, how much is needed and how much is included in the President's FY 1992 budget.

ANSWER: The analysis of the cancer registry data from the Charleston Area Medical Center is progressing satisfactorily. However, due to unforseen technical difficulties, the National Institute for Chemical Studies has requested a 4 month no-cost extension for this project with completion now scheduled for July 31, 1991. Due to this delay, there is no preliminary information available on the study findings. The need for follow-up funding in FY 1992 is not anticipated.

RURAL WATER TECHNICAL ASSISTANCE PROGRAM

SENATOR BYRD: Last year, the Committee provided $4,650,000 for drinking water training and technical assistance. This was an increase of $3,450,000 over the budget request and $700,000 over the previous year's level of support for the program. The amount provided was intended to fund the Rural Water Association at $3,700,000, and the Rural Community Assistance program at $700,000. Please provide for the record a current breakdown of EPA's efforts in assisting small communities in West Virginia that have drinking water systems which are out of compliance with federal standards. In his January 8, 1991 response to my inquiry to EPA William Reilly, Assistant Administrator Charles L. Grizzle indicated that the grant to the National Rural Water Association would be processed within 30 days. What is the status of this grant?

ANSWER: The National Rural Water Association currently provides $70,000 to fund a state association in West Virginia. The West Virginia association provides on site technical assistance and conducts training to help systems comply with the Safe Drinking Water Act (SDWA). The West Virginia Rural Water Association has made 32 contacts with systems having difficulties complying with the Safe Drinking Water Act. The Primacy Agency requested WVRWA to directly work with twelve of these systems through an effort to prioritize technical assistance efforts. The Rural Community Assistance Program provides $58,000 in funding to their seven state Great Lake Rural Network. The State of West Virginia is included within this network and several systems have received technical assistance. The fiscal 1992 grant to the National Rural Water Association (NRWA) has been signed and processed.

GROUNDWATER PROTECTION PROGRAM-WEST VIRGINIA

SENATOR BYRD: Last year, the Congress provided the addition of $1,000,000 for a ground water protection program after the National Rural Water Association had developed a clear strategy for the use of these funds. Consistent with provisions of the Safe Drinking Water Act which provides for technical assistance to small communities to protect the quality of their underground sources of drinking water. This strategy was to be exclusively geared toward aiding economically depressed rural areas of the country. Please provide for the record an updated schedule on the progress of developing a comprehensive strategy to implement this program. This update should outline significant milestones, and the breakdown of the areas within West Virginia this plan addresses. When will this grant be awarded? May I have your assurances that the EPA will develop and present to the Committee a comprehensive strategy that assures the Committee of EPA's commitment and direction to this project?

ANSWER: EPA approved the National Rural Water Association's (NRWA) grant proposal on March 8, 1991. On March 17, officials from states selected for participation in the program (Arkansas, Georgia, Idaho, Iowa, Kentucky, Louisiana, Michigan, Northeast states [MA, NH, VT], Pennsylvania, Utah, West Virginia, Wisconsin) began to receive training in wellhead protection issues. The next step in the process is for the NRWA affiliate in these states to develop specific plans for providing technical assistance and training in wellhead protection to economically distress, rural areas within their states. The responsibility for developing strategies for this project has been given by NRWA to the NRWA state affiliate, in order to best address their individual wellhead protection needs. These state strategies will be forwarded to the committee when received. As will the other states' plans, West Virginia's plan will include the strategy for implementing the program in each state as well as selecting of areas within the state for participation. West Virginia's plan will be forwarded to the Senator's office when received.

SMALL FLOWS CLEARINGHOUSE

SENATOR BYRD: Last year, the Committee and the Congress provided $1,000,000 over the budget report for the Small Flows Clearinghouse in Morgantown, West Virginia, to initiate the establishment of a training program to aid small rural communities to comply with EPA regulations concerning drinking water, wastewater, and solid waste disposal and development of the capabilities for securing the necessary equipment and financing for the operation of waste and water systems. What is the total amount which EPA will provide to the Small Flows Clearinghouse in FY 1991?

ANSWER: The $350,000 appropriated for FY 1990 was reduced as a result of Congressionally mandated budget adjustments. The amount available for obligation is $332,700. This amount, plus the $1,000,000 appropriated for FY 1991 is ready for obligation to the University of West Virginia upon the receipt of their revised grant application.

SENATOR BYRD: How much is programmed for FY 1992?

ANSWER: The President's budget requests for FY 1992 does not include an amount for the National Training Center.

SENATOR BYRD: In response to my questions at last year's hearing, it was indicated that the $350,000 included at my request for FY 1990 for the Small Flows Clearinghouse would (be) utilized after completion of a strategic plan, which was expected from the Clearinghouse by April 1990. This strategic plan was intended to determine the direction the Clearinghouse will take to obtain self-sufficiency. Part of the strategic plan's activities will be in the development of training materials for small rural community wastewater treatment plant operators and local officials. Please provide for the record a current status of the strategic plan, including significant milestone events, leading to the full implementation of this project.

ANSWER: When Congress appropriated $350,000 ($332,700 after mandated budget adjustments) in FY 1990 for small community training activities, EPA invited the University of West Virginia to develop a strategic plan for the new training activities and to submit a grant application based on that plan. As we indicated at last year's hearing, we asked the University to complete the plan by April so that the grant could be awarded before the end of the fiscal year. The University did not submit a satisfactory strategic plan.

In July 1990, when it became apparent that Congress intended to appropriate $1,000,000 for FY 1991 for a multi-media, small community National Training Center, EPA began a process that included representatives of the University, the EPA program offices responsible for solid waste, drinking water and wastewater treatment, and the major national organizations already providing training to small communities such as the National Rural Water Association, the Sec. 109(b) State Training Centers, the Rural Community Action Program, the National Environmental Training

SMALL FLOWS CLEARINGHOUSE

Association and the Safe Drinking water Act (SDWA) Training Coalition. The purpose of this process is to identify the training already available to small communities and to assist the University to develop a mission that adds to the training services available rather than duplicates them.

SENATOR BYRD: EPA National Training Center at West Virginia University posed in a follow-up letter on November 28, 1990, to Administrator William K. Kelly on the status report on the Small Flows Clearinghouse and the EPA National Training Center which is managed by the National Small Flows Clearinghouse in Morgantown, West Virginia, he indicated that the EPA is negotiating work plans for use of the funding with West Virginia University. What is the outcome of these negotiations?

ANSWER: EPA suggested to the University that it set aside a portion of the funds ($50,000) already available to develop a mission for the National Training Center. The University submitted an application on August 17, 1990. However, the grant could not be processed before the end of the fiscal year and funds are currently being reissued in keeping with the Agency's normal financial management procedures. A grant deviation for $60,000 was processed on January 23, 1991, to allow the University to use funds currently available to the Clearinghouse for planning the National Training Center. These funds will be reimbursed from the Training Center grant.

As of this writing, EPA has developed an internal definition of the training that the three program offices deem most important and useful for the National Training Center to undertake. EPA is meeting with representatives of the University on April 3, 1991. The purpose of the meeting is to discuss the status of the University's planning for the National Training Center and the process for reaching a successful grant award before the end of this fiscal year.

SENATOR BYRD: West Virginia University is also consulting with EPA and potential users to more clearly define the National Training Center's mission before developing a work plan. Please provide for the record the results of EPA's efforts with West Virginia University on the development of the National Training Center.

ANSWER: As mentioned above, EPA has begun a process to identify the training needs and a role for the National Training Center which supplements current training efforts, and is meeting with University representatives on April 3, 1991 to discuss the status of their planning effort.

SEWAGE TREATMENT PROGRAM

SENATOR BYRD: The Fiscal Year 1992 President's Budget proposes to reduce the Sewage Treatment program from the $2 billion appropriated in FY 1991 to $1.5 billion in FY 1992. The estimated amount for West Virginia would be reduced from $32.2 million in FY 1991 to $23.7 million in FY 1992. How do you justify such a reduction?

ANSWER: Under the Clean Water Act, the authorized level decreases by $600 million in FY 1992. In contrast the President's request is only $100 million below the FY 1991. Given the Agency's many competing priorities, the request will continue to establish long-term viability of SRF programs and ensure States' ability to provide financial assistance to communities for construction of treatment facilities. Of all West Virginians served by centralized sewage treatment facilities, 93% are served by facilities with secondary treatment capability, the technology called for in EPA's National Municipal Policy. This percentage compares well with figures for other states.

SENATOR BYRD: Please provide, for the record, a table showing the location, and funding levels for all West Virginia localities involved in this program in FY 1991 and the projects anticipated to be funded under the $23.7 million in FY 1992.

ANSWER: West Virginia is in the process of developing a list of localities which will be involved in the SRF program in FY 1991. This list is expected to be available in July 1991. The State has not yet developed a list of projects anticipated to be funded in FY 1992.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

HANFORD NUCLEAR RESERVATION

SENATOR HATFIELD: Does the EPA have adequate staffing and other resources necessary to continue studying this problem [tank waste discharge to soil column] and confirm findings in the most expeditious manner possible, and if not, what additional resources are needed?

ANSWER: EPA's FY 1992 Budget request includes increased resources to assist Region X with the Hanford site. In FY 1992, EPA is requesting a total of 250 Superfund FTEs for Federal Facility National Priorities List work (218 of which will be directed for Regional work). Our FY 1992 workload projections show that Region X will receive 12-14 additional workyears and some additional contract funds (under $1 million) above their current level of 20 FTEs and $4 million in contract dollars. The FY 1992 request was formulated to address primarily Department of Energy and Department of Defense mega-site problems (with multiple operable units), like Hanford.

At the EPA Hanford Project Office, current staffing consists of a project manager, three environmental engineers to work on Superfund projects and one environmental engineer to work on RCRA permit issues. Secretarial support is provided via a senior citizen program, funded by contract dollars. In addition, to the workyears assigned directly to the Hanford Project Office, certain other EPA staff charge a portion of their time to the Hanford account, as required by Superfund. These individuals include supervisors, community relations staff, and technical support staff.

Contract support has played a key role in EPA's success at Hanford. EPA, Region X Federal Facility staff use the services of both the U.S. Geological Survey and Planning Research Corporation. The quality of work from both these contracts has been excellent and the dollars have been available to support that effort thus far.

HANFORD CLEANUP/COOPERATION WITH DOE

SENATOR HATFIELD: Is the Department of Energy cooperating with EPA on issues relating to the clean-up of Hanford, and to what extent are resources being shared?

ANSWER: EPA's Region X Office has an excellent working relationship with DOE-Richland Operations. An example of interagency cooperation is their resource sharing in the public involvement program, which is a joint EPA, DOE, Washington State effort. The majority of the work involved in this public outreach program is done by DOE and its contractors, with concurrence by EPA and the State of Washington. Another example is DOE's willingness to allow EPA to connect into its computer local area network (LAN). This cooperative effort has given EPA access to various environmental data bases, thereby increasing the efficiency of our staff in resolving information problems. In addition, DOE has also been cooperative in fulfilling EPA's various information request.

EXTENT OF CONTAMINATION AT HANFORD

SENATOR HATFIELD: Could you briefly describe the extent of your findings relating to contamination at the Hanford Nuclear Reservation?

ANSWER: In general terms EPA, DOE and the state of Washington have identified over 1400 individual waste sites at Hanford, with a wide range of size, waste type and inventory, history, and environmental significance. Most of the waste sites are inactive, but some are currently in use and will be subject to a RCRA permit. The waste sites are responsible for an estimated 8 billion cubic yards of soil contamination and over 200 square miles of groundwater contamination, some of which is known to enter the Columbia river. The +1400 sites have been divided into 78 Superfund operable units for purposes of investigation and cleanup. Each of these operable units will be managed as a separate Superfund project.

In terms of tank wastes which were disposed to soil during the 1940's and 1950's, EPA has known of such releases since 1989 and has factored the significance of such releases into the priority system used for operable unit investigations. As an example, the highest priority operable unit containing radioactive waste sites, consists of soil discharge sites which received liquid waste from high level waste tanks. EPA has determined that the groundwater beneath these sites is contaminated with both radiological and chemical constituents. This information has been available for public review since the late 1980's, although its technical language would not necessarily allow a general reader to fully comprehend the impact of these discharges to the environment.

As we are able to research the existing information further and as new information comes to light, EPA, DOE, the state of Washington, and the public will be provided with better insight as to the extent and significance of those past discharges. It is our understanding that DOE-Richland and its contractors will issue a comprehensive report on the subject of releases (both leaks and discharges) of tank liquids to the soil in April, 1991.

1992 BUDGET FOR HANFORD ACTIVITIES

SENATOR HATFIELD: How much money have you budgeted for Hanford related activities in Fiscal Year 1992 and will it adequately meet your needs?

ANSWER: EPA's FY 1992 Budget request includes increased resources to assist Region X with the Hanford site. In FY 1992, EPA is requesting a total of 250 Superfund FTEs for Federal Facility National Priorities List work (218 of which will be directed for Regional work). Our FY 1992 workload projections show that Region X will receive 12-14 additional workyears and some additional contract funds (under $1 million) above their current level of 20 FTEs and $4 million in contract dollars. Region X in consultation with EPA Headquarters Federal Facility Program will make the determination for allocating these resources to Hanford and other Federal Facility sites. Region X has made some preliminary estimates which we consider "conservative" to staff the Hanford site, by Fiscal Year they are:

FY 1991 - 10.3 FTEs
FY 1992 - 14.4 FTEs
FY 1993 - 18.2 FTEs
FY 1994 - 21.8 FTEs

The FY 1992 total Federal Facility National Priorities List (NPL) site contract support estimates are still being developed. However, the current estimate is $556,000.

FUNDS SPENT ON HANFORD

SENATOR HATFIELD: How much money has EPA spent to date on Hanford related activities?

ANSWER: The following table provides EPA's Region X tracking of Hanford Superfund expenditures. The FY 1991 figures are year to date, based on disbursements. Also, the 1 RCRA FTE devoted to Hanford is not included in the Superfund resources noted below:

Superfund Expenditure - Hanford

Fiscal Year	Admin Cost	Contract	Total
1987	$6,000	$2,000	$8,000
1988	$53,000	$10,000	$63,000
1989	$74,000	$300,000	$374,000
1990	$167,000	$342,000	$509,000
1991	$73,000	$2,000	$75,000
TOTAL	$373,000	$656,000	$1,029,000

FUNDING FOR GLOBAL CLIMATE CHANGE

SENATOR HATFIELD: In Fiscal Year 1991, EPA funding for Global Climate Change was substantially increased. Have any of the funds been used to examine the effects of global warming on coastal environments, and if so could you briefly describe the specific program items? And, does the EPA propose to develop a mitigation program to minimize these effects?

ANSWER: EPA's FY 1992 Budget contains no funding for studying coastal impacts. However, EPA has had a program since 1982 to examine the impacts of (global warming induced) sea level rise on coastal areas. For fiscal years 1990 and 1991, the approximate allocation of contract dollars was as follows:

1.	Impacts on Developing Nations	50,000
2.	Impacts on U.S. Wetlands	150,000
3.	Value of U.S. lands that could be lost	60,000
4.	Impact of wetland loss on Gulf Coast fisheries	20,000
5.	Strategies for Saving Louisiana's Mississippi River Delta (start-up of multi-year project)	8,000
6.	Impact of increased hurricanes on beaches (start-up of multi-year project)	8,000
7.	Conference Support for Intergovernmental Panel on Climate Change	55,000
8.	Impacts on Chesapeake Bay	40,000

GLOBAL CLIMATE PROGRAM AT RTP

SENATOR HATFIELD: Could you briefly describe the Global Climate Change Program centered at the Research Triangle Park?

ANSWER: The EPA Air and Energy Engineering Research Laboratory program at Research Triangle Park, North Carolina, is providing critical information leading to a national assessment of current and future methane emissions from coal mining, from landfills and other waste management facilities. ORD will look at the practices of the natural gas industry. Research is being conducted to address potential mitigation/utilization methane emissions, as well as a national assessment of the potential for regional, direct use of biomass for fuel to supply energy needs.

The EPA Atmospheric Research and Exposure Assessment Laboratory in Research Triangle Park, North Carolina, will report on the development and application potential of a global chemistry NOx model for the evaluation of anthropogenic and biogenic contributions to greenhouse gases. The research activities include the examination of the distribution, lifetime, and behavior of selected carbon-containing greenhouse gases for the purpose of characterizing their anthropogenic impact on a global scale, and to evaluate potential control strategies.

FUNDING FOR CLEAN AIR ACT REQUIREMENTS

SENATOR HATFIELD: Does your budget adequately fund the planning necessary to meet the requirements of the Clean Air Act as authorized by Sec. 822, and if not, how will metropolitan areas be able to meet the requirements and deadlines to achieve improvements in air quality?

ANSWER: Section 822 of the Clean Air Act Amendments authorizes Congress to appropriate funds for grants to organizations of local elected officials with transportation or air quality maintenance planning responsibilities.

EPA has not requested funds under this section in its FY 1992 budget. However, EPA has requested a $24.4 million increase in grants for state and local air quality agencies under section 105 of the Act. State and local air quality agencies have primary responsibility for developing state implementation plans (SIPs) required under the Act. Air quality agencies can establish agreements with organizations of local elected officials that would provide funding to these organizations to accomplish work required for SIP development. Organizations of local elected officials also receive funding from the Department of Transportation to perform transportation planning and must incorporate air quality considerations in plan development.

EPA therefore believes that there is already adequate opportunity for organizations of local elected officials to participate in SIP development and meet the requirements and deadlines of the Act.

GLOBAL CLIMATE RESEARCH COORDINATION

SENATOR HATFIELD: To what extent do you coordinate Global Climate research activities with other agencies involved in related research such as NASA and NOAA?

ANSWER: The Committee on Earth and Environmental Sciences (CEES) provides the principal focus for the interagency coordination and collaboration required for the successful implementation of the U.S. Global Change Research Program (USGCRP). The Committee membership reflects the highest levels of scientific leadership in the member agencies (including EPA) and Departments, and they have been actively involved at all stages in the evolution of the U.S. Global Change Research Program. EPA's Global Change Research Program is coordinated and approved along with all other agency's Global Change Research programs on an annual basis by CEES.

Among the cooperative research efforts that EPA has with other agencies is one that will improve the quantitative estimates of deforestation (frequency and intensity of biomass burning) on global scales, its contribution to changes in biogeochemical cycles, and its ecological and atmospheric consequences. This project is being carried out jointly by EPA, NASA, USDA/USFS, NSF, DOE, and USAID. Another joint project is being carried out by the EPA Environmental Research Laboratory in Corvallis, Oregon, with the U.S. Forest Service. This project will evaluate the degree to which forest and agroecosystems can be technically managed, on a sustainable basis, and the degree to which biomass may be substituted for fossil fuel to reduce accumulation of greenhouse gases in the atmosphere. EPA is also working collaboratively with NOAA to determine the distribution, lifetime, and behavior of selected carbon-containing greenhouse gases for the purpose of characterizing their anthropogenic impact on a global scale, and to evaluate potential control strategies.

SUBCOMMITTEE RECESS

Senator **LEAHY**. This concludes the subcommittee hearing. We will stand in recess until March 20, when we will take testimony from the Federal Deposit Insurance Corporation and the Resolution Trust Corporation.

[Whereupon, at 4:15 p.m., Wednesday, March 13, the subcommittee was recessed, to reconvene at 1:30 p.m., Wednesday, March 20.]

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1992

WEDNESDAY, MARCH 20, 1991

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:45 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chair) presiding.

Present: Senators Mikulski, Garn, D'Amato, and Kerrey.

RESOLUTION TRUST CORPORATION

STATEMENT OF L. WILLIAM SEIDMAN, CHAIRMAN

ACCOMPANIED BY:
WILLIAM ROELLE, DEPUTY EXECUTIVE DIRECTOR
MARY CREEDEN, ASSOCIATE DIRECTOR OF FSLIC OPERATIONS

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order.

The chair apologizes for being late because of the rollcall vote on issues related to the supplemental appropriations.

But today, we are going to review selected activities of the Resolution Trust Corporation and the National Credit Union Administration.

Our first witness will be Mr. William Seidman, Chairman of the Resolution Trust Corporation which recently took over the FSLIC resolution fund. The FSLIC resolution fund was created by Congress to handle the final disposition of those S&L's that failed prior to the passage of FIRREA and are thus subject to an appropriation within this subcommittee.

This subcommittee provides the FSLIC resolution fund with its needs that were not met by nonappropriated sources. For 1992, the administration estimates its needs for appropriated funds to be $3.4 billion. Unfortunately, thus far appropriated funds have been far and away the primary source of money. The taxpayer has taken a terrible beating on these S&L's while others have profited tremendously. I think it is time we started putting the taxpayers first and we are going to be reviewing some of these questions today.

As we look through the appropriations, I want assurances that we are going after those who profited and that the RTC is doing everything it can to hold down costs.

In addition, I believe all of us are deeply troubled by the slow pace of the FDIC and now the RTC in saving taxpayer funds for the pre-1989 failures. Last year we were told that our appropriation of $22 billion would save the taxpayers $2 billion by renegotiating many of the pre-FIRREA deals. Unfortunately, nearly 6 months after our appropriation bill was signed into law, we have not been advised of one renegotiated deal that has been completed.

We are also concerned because the RTC's justification that spells out how they will use their 1992 budget is among the unclearest of any agencies. Despite a request of over $3 billion, it is impossible to identify where the money is going or what it is going to be used for.

If time permits, Mr. Seidman, we would also like your perspective on the banking industry and the insurance fund, but we do need answers to those questions.

I am going to ask my ranking minority, who also is the ranking minority on the Housing and Banking Committee, who brings a great deal of expertise on these issues, if he has an opening statement and also my colleagues.

OPENING REMARKS BY SENATOR GARN

Senator GARN. Very briefly, Madam Chair. Because of that dual role, I will not bore Mr. Seidman with a long opening statement. We in all of the other banking issues deal with him so extensively on the authorization committee that I will not take your time or his to duplicate them.

I would also apologize for, in about half an hour, needing to leave. The Banking Committee is holding a very important meeting on interstate banking. So, after Mr. Seidman's testimony, I will need to get up there and catch that after it has started. So, I take no other time at this point.

Senator MIKULSKI. Senator Garn, would it be helpful to you for you to ask some questions before I ask mine?

Let me see if Senators D'Amato and Kerrey have any opening statements or if they would prefer to just move on to the questions.

REMARKS BY SENATOR D'AMATO

Senator D'AMATO. Madam Chairman, in the interest of time, because I too have a Transportation Subcommittee hearing and a full Banking Committee hearing, I am going to ask the indulgence of the chair and of Chairman Seidman because I would like to ask some questions for the record. I will submit questions for the record.

I will put my statement in the record, as if read in its entirety.

Senator MIKULSKI. Fine. Without objection, we will be happy to meet the Senator's request.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

I join the chairman and other members of this committee in welcoming today's witnesses and thanking them for coming to discuss fiscal year 1992 budget requests for their respective agencies.

Other than discussing specific budgetary needs, I would like to pose a question to the Chairman of the FDIC and RTC, Mr. Seidman, who it seems is always asking Congress for more money.

At the beginning of this month, in response to the rumblings over the credit crunch over the last several months, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of Thrift Supervision issued joint statements and guidelines to clarify certain regulatory and accounting policies. These new guidelines and statements were designed to counteract the heavy hand that many examiners have been using to evaluate financial institutions.

Among the issues covered was a provision relating to recognition of interest income on loans that have been partially charged off but the balance of which is expected to be collectable. The interest would be recognized on a cash basis without first requiring that the prior chargeoff first be recovered. This proposed practice has been referred to as loan splitting.

Although the loan-splitting proposal will go through a comment stage, it has already been the subject of much controversy. I would be interested in hearing more detail on how the loan-splitting provision would increase credit availability and how you respond to the fact that many people believe it is an accounting contortion that will eventually become painful.

Thank you, Madam Chair.

Senator MIKULSKI. Senator Kerrey?

Senator KERREY. I have no opening statement.

Senator MIKULSKI. Senator Garn, knowing that you have the interstate banking hearing to go to, we would be very happy for you to ask your questions first as a courtesy.

Senator GARN. Well, I appreciate that very much. I only have one question again because having the opportunity on all these issues to ask the questions so many times up there in banking, I do not need to repeat them. But there is one that is very important that I have been working on for some time and that is lender liability.

RTC/FDIC LIABILITY FOR ENVIRONMENTAL PROBLEMS

We do have what I consider a dramatically increasing problem under the Superfund legislation that is not the original intent of the Superfund but is holding not only lenders, but the RTC and the FDIC liable for environmental problems that they had nothing to do with. I want to stress my legislation that was introduced again last week deals with innocent lenders. Certainly if a lender has had something to do with the management of a property or in any way connected with the pollution or the spoiling of the land, they should be held accountable. Only in the case of innocent lenders.

I cite one example, probably the worst example, of a bank in Texas that in 1948 repossessed a piece of property. That is all they had to do with it. They had a mortgage loan. They repossessed. They held the property for 3 months in the fall of 1948. Last year, after going through all of the owners and not being able to find anybody with any money or anybody to hold responsible, they have been attempting to have this bank pay for the environmental cleanup over 40 years later.

There is an institution in my city, Salt Lake City, a bank, that had a mortgage on an automobile dealership, a Toyota dealership. The Toyota dealership is in bankruptcy. Now, that is a little bit hard to understand how anybody could run a Toyota dealership into bankruptcy but, nevertheless, they have. The bank repossesses the property. A new dealer comes in and wants to buy it, refuses to buy it because of pollution on the land. So, he ends up buying the franchise and the inventory and moving to another site. The bank is left with this polluted property which will cost more to clean up than the mortgage that was owing, which they lost as well, and more than the market value of the property, and they had nothing to do with the situation at all.

So, my question of Mr. Seidman is simply how he feels this innocent liability affects the RTC, the FDIC and the institutions that he insures and whether my legislation is a good way to go to try and solve the problem.

Mr. SEIDMAN. Thank you, Senator Garn.

We have studied your legislation very carefully. We think it is one of the most essential steps necessary for the RTC to be able to do its job in a more effective way. We deal with the private sector, and the private sector is so worried about these potential and unknown liabilities, that they are unwilling to take the risk of buying properties from us in a great many cases because of that potential liability. On the private sector side, there are just a great many banks that do not want to restrict credit because of the fear of this potential liability.

So, it is a very important issue. It cannot be, in our view, handled by the EPA through regulations and so forth. It must be handled by law in order to provide protection for the innocent parties involved so that we can move ahead without this potential unknown liability handicapping both the sales to the RTC and the lending of private banks.

Senator GARN. I have been disappointed that the environmental lobby seems to want to make it an environmental issue. We are not talking about anybody avoiding cleaning it up or in any way adding to the problem. It is simply the fact that innocent lenders should not be held responsible for something they had nothing to do with. It is, I think, adding to the credit crunch, as you mentioned, beyond the problem that already exists. Lenders are saying if there is any possibility, I am not going to make a loan either.

Mr. SEIDMAN. That is correct.

Senator GARN. Madam Chair, I appreciate your courtesy, and Chairman Riegle may not appreciate it that you let me go up to those hearings, but I do. So, thank you very much.

Senator MIKULSKI. We talked about it. We decided who would get you today. [Laughter.]

Mr. Seidman, why don't you proceed with your testimony.

SUMMARY OF RTC ACTIVITIES

Mr. SEIDMAN. Thank you, Madam Chair, members of the subcommittee. I appreciate being invited to appear before you today on behalf of the FDIC and the Resolution Trust. I welcome this opportunity to discuss our progress in reducing the costs of the 1988–89 FSLIC assistance transactions since the appropriation by Congress for fiscal year 1991 of $22 billion was most welcomed and we deeply appreciate your making these funds available to us. We believe we have realized important reductions as a result of that appropriation. We also wish to thank you and others for approving our $30 billion RTC funding bill, which fortunately has just gone through the conference.

Before detailing our uses of the 1991 appropriation, I briefly would like to tell you of our activities in this area overall. The RTC, in conjunction with the RTC Oversight Board, has already embarked upon the core organizational changes and strategies necessary to exercise the Government's legal rights to realize cost savings for the taxpayer using this appropriation. A small RTC staff, supported by outside investment bankers, law firms, and consultants is in place and our negotiation activities have commenced.

Currently we have $25.7 billion available to reduce the cost of the agreements and pay the ongoing obligations of the resolution fund. This includes $22 billion in the fiscal year 1991 appropriation, $1.1 billion in beginning cash balances, and $2.6 billion in estimated nonappropriated income. We have committed approximately $16.8 billion of these funds as follows:

In contractual obligations, $6.4 billion, such as yield maintenance, capital loss payments, and interest on FSLIC promissory notes. Those are committed to the Government's legal obligations under the FSLIC agreements.

In covered asset writedowns, $1.4 billion. That is taking out covered assets from the agreements by paying them off.

In prepayment of FSLIC notes, $8.7 billion, including $3.5 billion at Sunbelt Savings, which is the largest institution still to be permanently resolved.

And $0.3 billion in administrative expenses.

The remaining $8.9 billion is available to use in further restructuring the FSLIC agreements to save money for the taxpayer.

REORGANIZATION OF FDIC/RTC

Let me tell you about the reorganization of the FDIC and the RTC which we have put in place to handle these matters. Although the responsibility for the administration and oversight of the FSLIC agreements has rested since 1989 with the FDIC, the RTC by January 1991 was poised to pursue its statutory mandate to reduce the costs for the Government under these agreements. Consequently, the FDIC and the RTC determined that the latter, the RTC, should have both oversight and renegotiating authority with corresponding organizational changes, as it enters into discussions with the assisted institutions. As a result, while the FDIC remains the exclusive manager of the fund, all responsibility for managing the assistance agreements has been transferred to the RTC.

We believe that the committee might want to entertain the possibility of a change in appropriations to follow this organizational change and provide the funds to the RTC instead of the FDIC for these activities. It really would be more efficient if all of this activity were in one place. So, we merely suggest that we might want to explore that with the committee to see what their thoughts might be on putting the appropriations together and, therefore, making all the funding and responsibility in the RTC instead of having it split the way it is now.

The Oversight Board has further granted authority to the RTC to renegotiate the 1988–89 transactions as it deems advisable with costs and benefits to be allocated to the resolution fund. It has also required the RTC to report its progress to the Oversight Board and, in so doing, document its activities for auditing and investigations by the RTC's inspector general, who you will hear from later.

REDUCING COSTS OF THE FSLIC AGREEMENTS

With respect to reducing the costs of the FSLIC agreements, consistent with the guidelines established by the Oversight Board, the RTC has begun implementation of a five-step plan for restructuring, renegotiating, and reducing the costs of the FSLIC assistance agreements. Over the life of the assistance agreements, we estimate the potential cost-saving opportunities from renegotiation and restructuring the agreements will be approximately $2 billion in present value terms, not including any tax benefits that may be recaptured. These cost-saving opportunities will come from our outlays in fiscal year 1991 and the exercise of future note prepayment and other options, including cost-saving opportunities of approximately $1 billion in interest costs and tax subsidies from the prepayment of notes of approximately $11.3 billion in 1991 at the earliest opportunity available. Since FSLIC had no cash at the time that they were trying to do this, they had to use their notes and they had to pay a premium rate. So, what we are doing is using cash to buy out those notes and therefore reduce the premium rate which the Government was required to pay.

There are cost-saving opportunities of approximately $500 million in yield maintenance costs and tax subsidies from the payment of approximately $3.8 billion to write down covered assets to margin, thereby reducing the very high costs that the Government contracted for when they put these contracts in place.

Cost-saving opportunities of approximately $500 million can be obtained if New West Federal Savings and Loan Association in Stockton, CA, fully exercises the prepayment options over the next several years on its $8 billion in intercompany notes with American Savings Bank. That's the so-called BASS transactions.

All of these savings come from the fact that we are exercising the options in the contract to replace notes and maintenance agreements with cash payments which reduce the overall costs.

And as I said, these do not reflect the potential tax savings beyond the tax subsidy savings described above.

Whether additional tax savings materialize depends upon the resolution of tax issues raised in the RTC report on the FSLIC transactions. On March 4, 1991, in the report on tax issues relating to the 1988–89 FSLIC transactions, the Treasury Department announced that "assisted institutions should not be allowed to deduct losses or expenses that are reimbursed by the FDIC." In the report, the Treasury Department recognized that the financial institutions will challenge this conclusion in court, and in letters to the chairmen and ranking minority members of both tax committees in the Congress, Secretary Brady urged that the Congress promptly clarify this issue by enacting legislation that either sanctions or disallows the deductibility of covered losses and expenses. The recent conference report further instructs us to proceed to attempt to implement tax savings in this area.

SUMMARY OF COST-SAVING OPPORTUNITIES

There has already been substantial progress toward implementing the five-step plan detailed in my written testimony to realize these cost-saving opportunities. Staff to date has given notice to 18 assisted institutions that the RTC will prepay approximately $4.7 billion in FSLIC promissory notes by June 30 of this year with additional prepayment scheduled to be made in the coming year.

With respect to our renegotiating efforts, we have assembled the legal, investment banking, and RTC staff necessary to undertake simultaneously the constituent phases of the renegotiation efforts, which may include the elimination of the Government's equity interest in the assisted transactions, reducing the tax benefits, and reducing capital loss coverage and yield maintenance levels. In this regard, we have had several meetings in the last few weeks with most of the parties to these contracts, and we expect to have three more next week. So, the negotiating procedures have begun. I think the parties realize that they are in a position where they will need to renegotiate. They are, of course, unhappy with the thought that the Government is not sticking to its word on the contracts involved. This, in fact, is not the case in our renegotiation since we are negotiating within the limits of the contract and within the limits of IRS rulings. In other words, we are not exercising any rights outside of the contracts because our investigations did not find any that we felt were available.

During the first quarter of fiscal year 1991, $2.2 billion in fiscal year 1991 appropriations was spent to meet ongoing obligations of the resolution fund under the assistance agreements. Also during the first quarter, covered assets, as I have said, of $1.4 billion were approved for estimated long-term savings of approximately $130 million. Moreover, significant progress was made during the calendar year to reduce the portfolio of covered assets held by the assisted institutions through sales. Through December 1990, $6.7 billion in covered assets had been disposed of reducing the aggregate book value of the portfolio to $29.2 billion. Of course, as we dispose of those assets, we reduce the costs by reducing the maintenance contract costs.

ADDITIONAL SUBCOMMITTEE REQUESTS, FISCAL YEAR 1992 RESOLUTION FUND LINE ITEM

The FDIC estimates, and the Office of Management and Budget concurs, that approximately $3.4 billion in appropriations for fiscal year 1992 are needed to meet payments totaling an estimated $5 billion with a difference of $1.6 billion coming from nonappropriated sources which are sales of assets. Nevertheless, given the real estate and interest rate variables upon which these estimates necessarily depend, we continue to support the Treasury's request to return to an appropriation that is current and indefinite in nature such as the resolution fund appropriation for 1990.

REPORT ON BIDDING AND NEGOTIATING PROCESS

In December 1990, the RTC sent its second of two reports on the 1988–89 FSLIC transactions to the Congress and the Oversight

Board. This report, prepared by two law firms, focused on the competitive sufficiency of the bidding and negotiating processes used by the Federal Home Loan Bank Board and FSLIC to resolve the failed thrifts in 1988 and 1989. In their reports, both firms noted that the Bank Board and FSLIC were hampered by financial resources that were insufficient to fund the transactions and provide for adequate staffing. These constraints affected the ability of the Bank Board and FSLIC to fulfill the goals of maintaining a competitive process.

For example, a review of the Southwest plan concluded that the plan did not provide the same opportunities for all potential bidders to compete on a fair and equitable basis. And a review of the more conventional transactions noted that certain factors, such as inadequacy of financial data and lack of meaningful comparisons of bids, were similarly cause for serious reservations about the bidding and negotiation procedures employed in the conventional deals. In each review, however, competitive processes were found to have developed in the Southwest plan by the end of the plan or to have been in the conventional transactions on the whole sufficiently competitive.

Senator MIKULSKI. Mr. Seidman, I just want to be clear what bidder means. Are you talking about those who were bidding on the acquisition of the failed S&L's, not the legal teams.

Mr. SEIDMAN. No.

Senator MIKULSKI [continuing]. Would handle all this.

Mr. SEIDMAN. That is correct.

Senator MIKULSKI. But the bidders actually who wanted——

Mr. SEIDMAN. Yes.

Senator MIKULSKI [continuing]. Who wished to be in the process of acquiring.

Mr. SEIDMAN. That is right.

The conclusion was that they certainly were not done in the best manner, that they were handicapped by lack of time, by insufficient staff, by lack of resources as a result of the bidding process which was not one that we would like to see. It improved toward the end and it did not provide, as far as they could determine, a basis for setting aside the contracts.

In conclusion, the RTC's use of resolution appropriations for fiscal year 1991 is built on the lessons we have learned in reviewing the FSLIC assistance agreements, as well as our own experience in the past 18 months. We believe we have an aggressive but realistic program that is already underway and will reduce the cost of the FSLIC assistance agreements to the taxpayers.

I can only add to that that those agreements were expensive agreements because the Government was negotiating without sufficient funds, without sufficient staff, with a very short-time deadline, and with a determination to make deals no matter what. As a result of that, these expensive deals were made, and we will be doing our best due to the fact that you provided us with the resources to exercise the options in those contracts and reduce the costs.

Thank you.

[The statement follows:]

STATEMENT OF L. WILLIAM SEIDMAN

Madam Chair and members of the Subcommittee, thank you for inviting me to appear before you today on behalf of the Resolution Trust Corporation. I welcome this opportunity to discuss our progress in reducing the costs of the 1988–89 Federal Savings and Loan Insurance Corporation (FSLIC) assistance transactions since the appropriation by the Congress for fiscal year 1991 of $22 billion for the FSLIC Resolution Fund (Resolution Fund). We deeply appreciate your making these funds available, which will enable us to realize important reductions in thrift clean-up costs. We also wish to thank you and your fellow Senators for recently approving a $30 billion RTC funding bill.

Before detailing our uses of the fiscal year 1991 appropriation, I briefly would like to tell you of our activities in this area overall. The RTC, in conjunction with the RTC Oversight Board, has embarked upon the core organizational changes and strategies necessary to exercise the government's legal rights to realize cost savings for the taxpayer using this appropriation. A small RTC staff, supported by outside investment bankers, law firms, and consultants, is largely in place, and our renegotiation activities have commenced.

The fiscal year 1991 appropriation, which was enacted on October 22, 1990, had two basic purposes. The first was to reduce costs by attempting to renegotiate provisions of the agreements and by unilaterally exercising existing contractual provisions to prepay promissory notes, write down covered assets, and repurchase covered assets. The second was to pay the ongoing obligations of the Resolution Fund.

Currently, we estimate we will have $25.7 billion available in fiscal year 1991 to reduce the cost of the agreements and pay the ongoing obligations of the Resolution Fund. This includes $22 billion in the fiscal year 1991 appropriation, $1.1 billion in beginning cash balances, and $2.6 billion in estimated non-appropriated income. We have committed approximately $16.8 billion of these funds as follows: $6.4 billion in contractual obligations, such as yield maintenance, capital loss payments, and interest on FSLIC promissory notes; $1.4 billion in covered asset write-downs; $8.7 billion in prepayments of FSLIC notes, including $3.5 billion at Sunbelt Savings, which is the largest institution still to be permanently resolved; and $0.3 billion in administrative costs. The remaining $8.9 billion is available to use in further restructuring the FSLIC agreements to save money for the American taxpayers.

A copy of the estimated budgetary outlays for the FSLIC Resolution Fund for fiscal year 1991 is attached as Appendix I.

I. REORGANIZATION OF THE FDIC AND RTC

Although responsibility for the administration and oversight of the FSLIC assistance agreements had rested since 1989 with the FDIC, the RTC by January 1991 was poised to pursue its statutory mandate to reduce costs for the government under these agreements. Consequently, the FDIC and RTC determined that the latter should have both oversight and renegotiation authority as it entered into discussions with the assisted institutions. As a result, while the FDIC remains the exclusive manager of the FSLIC Resolution Fund, all responsibility for managing the assistance agreements has been transferred to the RTC. The Oversight Board has further granted authority to the RTC to renegotiate the 1988–89 FSLIC transactions as it deems advisable with costs and benefits to be allocated to the Resolution Fund. It has also required the RTC to report its progress to the Oversight Board and, in doing so, document its activities for auditing and investigations by the RTC's Inspector General.

In terms of personnel, the reorganization makes RTC Deputy Executive Director William H. Roelle responsible for both the operational oversight and the renegotiation efforts. Practically speaking, day-to-day operational oversight of the assistance agreements will not change, for the entire FDIC Division of FSLIC Operations (DFO) has been reassigned to the RTC. As mentioned earlier, a small staff supported by outside investment bankers, law firms, and consultants is already in place, and renegotiation activity has commenced.

The structure of this group will allow all phases of this effort to be undertaken simultaneously. Functionally, there will be three different teams operating somewhat independently of each other. Two groups will be renegotiating the larger transactions; one of these will concentrate on Texas and another on the remaining transactions. A separate team will work to terminate as many of the smaller agreements as can be financially justified.

Under FIRREA, the RTC Oversight Board has two specific responsibilities regarding these agreements. First, it must develop and establish overall strategies, policies, and goals. Second, it is required to allocate the cost or income associated with any modification of the FSLIC assistance agreements between the RTC and the Resolution Fund.

The Oversight Board's overall strategies, policies, and goals with regard to the FSLIC assistance agreements are contained in the strategic plan for the RTC and in Policy Statement No. 16, issued on January 16, 1991. In the strategic plan, the Oversight Board authorized the RTC to use private contractors to perform the reviews of the FSLIC assistance agreements mandated by FIRREA. These reviews were completed and submitted to Congress on September 18 and December 27 of 1990. The strategic plan also allocated all costs or income from modifications to the Resolution Fund.

Policy Statement No. 16 specifically addresses the FSLIC assistance agreements. In preparing this document, the Oversight Board had access to: 1) the RTC's cost evaluation studies on each assistance agreement; 2) the RTC's report on the competitive sufficiency of the FSLIC's bidding and negotiating processes; and 3) the RTC staff's recommendations on renegotiating the agreements. Basically, the policy statement grants broad authority to the RTC to proceed immediately to renegotiate the 1988–89 FSLIC transactions as the RTC deems advisable, and requires that the RTC report its progress to the Oversight Board and that, in doing so, document its procedures, decisions, and actions to facilitate detailed auditing and investigation by the RTC's Inspector General. A copy of Policy Statement No. 16 is attached as Appendix II.

In going forward, the RTC will keep the Oversight Board closely advised of its progress, and, as issues of policy are raised beyond the scope of existing pronouncements, it will consult with that organization.

II. REDUCING THE COST OF FSLIC ASSISTANCE AGREEMENTS

Consistent with the guidelines established by the Oversight Board, the RTC has begun implementation of a five-step plan for restructuring, renegotiating, and reducing the costs of the FSLIC assistance agreements. Over the life of the assistance agreements, we estimate the potential cost savings opportunities for renegotiating and restructuring the agreements will be approximately $2 billion in present value terms. Our study indicates that there will be cost savings opportunities from our outlays in fiscal year 1991 and the exercise of future note prepayment and other options including: cost savings opportunities of approximately $1 billion in interest costs and tax subsidies from the prepayment of notes of approximately $11.3 billion in 1991 and at the earliest opportunity thereafter; cost savings opportunities of approximately $500 million in yield maintenance costs and tax subsidies from the payment of approximately $3.8 billion to write-down covered assets in 1991 to market value; and cost savings opportunities of approximately $500 million could be obtained if New West Federal Savings and Loan Association in Stockton, California fully exercises its prepayment options over the next several years on its $8 billion inter-company note with American Savings Bank, FA. These savings do not reflect additional potential tax savings beyond the tax-subsidy savings described above.

Whether the additional tax savings materialize depends upon the resolution of tax issues raised in the RTC Report on the 1988–89 FSLIC transactions. On March 4, 1991, in the "Report on Tax Issues Relating to the 1988/89 Federal Savings and Loan Insurance Corporation Assisted Transactions," the Treasury Department announced that "assisted institutions should not be allowed to deduct losses or expenses that are reimbursed by the FDIC." In the report, the Treasury Department recognized that financial institutions will challenge this conclusion in the courts and, in letters to the chairmen and Ranking Minority Members of both Tax Committees in Congress, Secretary Brady urged that Congress promptly clarify this issue by enacting legislation that either sanctions or disallows the deductibility of covered losses and expenses.

The five steps of the RTC's plan for restructuring, renegotiating, and reducing the costs of the FSLIC assistance agreements are as follows:

Step 1—The prepayment of $5.2 billion in FSLIC promissory notes will occur in fiscal year 1991. Prepaying these notes should result in approximately $550 million in interest savings over the remaining terms of the notes. Again, this estimate does not include savings from the elimination of tax benefits, which are difficult to quantify with any degree of accuracy.

Step 2—The 32 largest agreements will be renegotiated. This process is designed to: 1) eliminate the government's equity interest in the resulting thrifts; 2) reduce or eliminate tax benefits; and 3) reduce capital loss coverage and yield maintenance to reasonable levels for carrying and asset management costs with effective performance incentives tied to asset management and disposition.

Step 3—If renegotiation efforts are not successful, the RTC will offer selected pools of covered assets to other asset managers under long-term repurchase agreements (or similar agreements) designed to compensate the new owners for reasonable levels of carrying and management costs and to provide earnings tied to performance incentives. If these market-based alternatives indicate that the FRF's liabilities can be comfortably reduced, the RTC will exercise its call options to repurchase selected covered assets and sell them to the third party bidders.

Step 4—The RTC will undertake to buy out the 51 smallest transactions during fiscal year 1991 to save administrative costs and eliminate further downside risk. Not including FSLIC promissory notes, the cost of the buy-out should be approximately $50 million.

Step 5—The RTC will evaluate further FSLIC note prepayments and covered asset write-downs and repurchases with regard to the use of remaining appropriated funds.

Not included in the five-part plan are seven FSLIC-assisted institutions presently under RTC control through conservatorship, receivership, or stock ownership. The seven institutions, along with the five stabilized institutions that were not fully resolved by the FSLIC in 1988, have been or will be sold by the RTC in the normal course of business. It should be noted, however, that the elimination or restructuring of existing assistance agreements precedes any such sale. If an agreement is terminated, the Resolution Fund will transfer to the RTC an amount of cash equal to the present value liability on the Resolution Fund's books and the RTC will become responsible for the full cost of the final resolution. If the cash settlement is large, it will be paid to the RTC over time. The Resolution Fund will not subsidize the RTC's costs or working capital needs beyond its contractual obligation under the existing assistance agreement.

There has been substantial progress toward implementing the five-step plan. Staff to date has given notice to 18 assisted institutions that the RTC will prepay approximately $4.6 billion in FSLIC promissory notes by June 30, 1991. Approximately $600 million of fiscal year 1991 prepayments cannot occur until September 1991. In those cases, where the amount of the notes is large in relation to the size of the institution, the RTC will phase in the prepayment to coincide with the maturity of Federal Home Loan Bank advances or other asset-liability management concerns.

In addition to assembling teams of RTC staff to work on the renegotiation effort, a preexisting contract with the investment firm of Donaldson, Lufkin & Jenrette (DLJ) has been renewed through 1991. DLJ worked extensively to liquidate and restructure the Resolution Fund's capital instrument portfolio and is in a unique position to provide investment advisory services in connection with the renegotiation effort, particularly with regard to the Resolution Fund's equity positions in certain assisted institutions. Outside legal and consulting services will also be procured to assist in the renegotiation effort.

III. ONGOING OBLIGATIONS/ROUTINE BUSINESS

In addition, we are continuing the day-to-day work of managing the agreements to minimize cost. During the first quarter of fiscal year 1991, $2.2 billion was spent to meet ongoing obligations of the Resolution Fund under the assistance agreements. This amount includes approximately $500 million in note principal payments, $500 million in note interest, and $1.2 billion in yield maintenance, capital loss, legal indemnification, and other forms of assistance. An additional $400 million in note interest for the first quarter was paid in early January.

Also during the first quarter, covered-asset write-downs in the amount of $1.4 billion were approved for an estimated long-term savings to the Resolution Fund of approximately $130 million. Estimated savings are based on the difference between the guaranteed yield that would have been paid on the amount of the write-downs over the projected average holding period (at the cost of U.S. Treasury obligations with maturities of approximately one year) and what is now estimated actually will be paid.

Finally, significant progress was made during calendar year 1990 to reduce the portfolio of covered assets held by assisted institutions. Through December 31, 1990, $6.7 billion in covered assets had been disposed of, reducing the aggregate book value balance of the portfolio to $29.2 billion. Dispositions through December 1990 represent 117 percent of our 1990 projected total of $5.7 billion. We intend to continue to establish aggressive, yet realistic, annual disposition targets for assisted institutions and to hold them accountable for meeting those targets.

IV. ADDITIONAL INFORMATION REQUESTS

The Subcommittee staff in preparation for today's hearing has asked us to touch on two additional subjects. First, we were requested to give our views concerning the Resolution Fund line item in the President's fiscal year 1992 budget. As a second matter, we were asked to discuss the RTC report submitted to Congress on the bidding and negotiating processes used by the Federal Home Loan Bank Board and the FSLIC[1] to consummate the assistance agreements.

FY 1992 RESOLUTION FUND LINE-ITEM

The FDIC estimates that approximately $3.4 billion in appropriations for fiscal year 1992 are needed to meet payments (gross outlays) totaling an estimated $5 billion with the difference of $1.6 billion coming from non-appropriated sources such as proceeds from the sale of assets and interest income. The Office of Management and the Budget concurs and has requested the same amount in the fiscal year 1992 budget.

Payments of claims for assistance agreement obligations in fiscal year 1992, including interest on notes, are estimated to be $4.5 billion. (The additional $500 million represents administrative expenses and accelerated payments.) This is down significantly from current estimates of $6.4 billion for our fiscal year 1991 payments for assistance agreements and note interest and is reflected in the intended use of the remaining amount of this fiscal year's $22 billion appropriation to reduce the cost of the program in subsequent years.

While the fiscal year 1992 numbers are our best estimate, there continue to be material uncertainties in quantifying overall program costs. These uncertainties are primarily due to the variables represented by interest rates and real estate values. While we have provided you with a specific fiscal year 1991 request, we continue to support a return to an appropriation that is current and indefinite in nature such as the FSLIC Resolution Fund appropriation for fiscal year 1990.

RTC REPORT ON BIDDING AND NEGOTIATING PROCESSES

In December 1990, the RTC sent its second of two reports on the 1988–89 FSLIC assisted transactions to the Congress and the Oversight Board. This report, prepared by two law firms, focused on the competitive sufficiency of the bidding and negotiating processes used by the Federal Home Loan Bank Board and the FSLIC to resolve failed thrifts in 1988 and 1989. Volumes 1 and 2, concerning the Southwest Plan and Oklahoma Plan resolutions, were prepared by the Washington, DC, law firm of Steptoe & Johnson. Volumes 3 and 4, concerning the remaining resolutions (sometimes known as conventional transactions), were prepared by the Washington, DC, office of the Cleveland, Ohio, law firm of Baker & Hostetler.

We asked these law firms to investigate and report on the competitive sufficiency of the bidding and negotiating processes. Both were given access to records maintained by the Office of Thrift Supervision (the successor to the Bank Board), the FDIC, the RTC, and the General Accounting Office. The lawyers performing the study interviewed former Bank Board members, former Bank Board and FSLIC management and staff, and persons who participated in a private sector capacity in the bidding and negotiation process. All interviews were voluntary. Neither the RTC nor the law firms had subpoena or other powers to compel witnesses to state what they knew or to produce documents. The law firms received good cooperation, and we know of no basis to question the information or insights disclosed or shared with the firms by the interviewees.

The two firms used the same criteria for evaluating whether bidding procedures used in 1988 and 1989 were sufficiently competitive. The criteria were: the statutory mandate in FIRREA, its legislative history, and contemporaneous expressions of congressional concerns regarding the competitive processes; the legal standards governing the FSLIC's actions in the assisted transactions; Bank Board and FSLIC guidelines and procedures governing the competitive processes; and standards of competition derived from other areas of law, such as the Competition in Contracting Act of 1984.

Using these criteria, the law firms based their assessment of the sufficiency of competition on examination of the following specific factors: the FSLIC's identification and solicitation of the field of potential bidders, including the breadth of its dissemination of Requests for Proposals and the FSLIC's bases for initial screening of bidder qualifications; the nature, amount, and equality of information provided to

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[1] The FSLIC, in operational terms, had the status of an office of the Bank Board and was in no sense separate from it.

bidders, including information about the bidding and selection process, information about the institution(s) to be acquired, and the equality of bidders' access to information and to FSLIC personnel; the nature of the evaluation process, including the FSLIC's bases for evaluating proposals, the susceptibility of bids to meaningful comparison, and the consistency in application of evaluation standards to different bidders and from transaction to transaction; the FSLIC's negotiation with selected bidders, including its equality of treatment of bidders in negotiations, its solicitation of revised bids, and its re-bidding of particular transactions; and the Bank Board's consideration and disposition of the transactions.

Both Steptoe & Johnson and Baker & Hostetler noted that the Bank Board and the FSLIC were hampered by financial resources that were insufficient to fund the transactions and to provide for adequate staffing. These constraints affected the ability of the Bank Board and the FSLIC to fulfill the goal of maintaining a competitive process.

Steptoe & Johnson concluded that the Southwest Plan "did not provide the same opportunities for all potential bidders to compete on a fair and equitable basis." Eight of the fourteen Southwest Plan transactions involving mergers or consolidations were "concluded with thrift or nonthrift institutions that had met with FSLIC and/or the Dallas Bank representatives weeks or months in advance of the dissemination of bid information to other potential acquirors." Nevertheless, Steptoe & Johnson noted that the competitive process became more developed and the standards more evident toward the end of the plan.

Baker & Hostetler noted that certain factors, such as inadequacy of financial data and the lack of meaningful comparisons of bids, were cause for "serious reservations about the bidding and negotiating procedures employed in the conventional deals." The firm concluded, however, that, given the constraints within which the FSLIC operated, the FSLIC "attempted to act evenhandedly" and that "the process as a whole was sufficiently competitive."

V. CONCLUSION

The RTC's use of Resolution Fund appropriations for fiscal year 1991 is built on the lessons we have learned in reviewing the FSLIC assistance agreements as well as our own experiences of the past 18 months. The result is an aggressive, but realistic, program that is already underway and will reduce the costs of the FSLIC assistance agreements to the taxpayer.

Madam Chair, this concludes my prepared statement. I would be happy to respond to any questions that you may have.

Senator MIKULSKI. Thank you for a very comprehensive testimony, Mr. Seidman.

I have a series of questions, and as I move into them, let me say this. I have a great deal of respect and admiration for you. You have certainly tried to be a voice of candor during this whole process, particularly as you have had to assume more and more responsibility.

COMMENTS REGARDING THE S&L CRISIS

However, I think you know from what is out there in the community that the American people are very frustrated by this S&L fiasco. The depositors are frustrated because they felt that they were sucker-punched into putting their life savings into what they thought were conservative investments. The taxpayer now feels sucker-punched because every time they turn around, it is more and more to do bailouts, and on every talk show or whatever, there is a bad deal that surfaces.

In comes the organization last year and asked for $22 billion saying it could save $2 billion by negotiations. The sum of $22 billion to this committee is a lot of money. I am not lecturing you, sir, but $22 billion would have been a whole HUD agency over what we did. We could have started Jack Kemp's HOPE project and Alan Cranston and Senator D'Amato's HOME project. It is $7 billion more than we gave the space program. It is two NIH's, and it is 10 times, just about, what the National Science Foundation is. So, to this committee, $22 billion is a lot of money.

Now, our question is after 1 year, when we said that if we could make $22 billion, that you could save $2 billion, I need to ask you, as if the taxpayers were here. Is the taxpayer now better off because those $22 billion were provided? And if so, how?

How many of the deals have actually been bought out or renegotiated?

Are the $2 billion estimates or are they actually real savings that are anticipated and documented waiting for them to come through?

When can we expect some tangible results?

SAVINGS REALIZED FROM LAST YEAR'S ESTIMATES

Mr. SEIDMAN. Well, Madam Chairman, the process has taken longer than we would have liked. If you reviewed the reports that we did, you will see that we had to make a detailed analysis of each transaction to determine what could be saved and how it could be saved. That has been done. We have reviewed the transactions for the bidding and how that has been done, and we are currently negotiating with all the parties involved to reform the contracts. The savings will be realized.

Now, the $22 billion is really payment of obligations that the Government has already incurred under the FSLIC transactions. By providing it to us now in the manner that you did, you allowed us to exercise these options and therefore to reduce the cost below what it would have been if we had merely continued under the contracts.

So, the process is underway. All the parties know that this renegotiation must be now completed rapidly. Of course, we are subject to the private sector. They are parties to this and we cannot renegotiate unless they agree. But with the weapons the Congress has given us, with the recent ruling of the Treasury Department, we expect that these renegotiations will be completed in the near future and the savings will be realized.

Senator MIKULSKI. So, to date we have not saved any money.

Mr. SEIDMAN. To date we have not saved any money, but starting June 30 we will save money because we have bought out a number of those contracts on which we will have savings.

Senator MIKULSKI. So we will actually have visual savings starting July 1.

Mr. SEIDMAN. That is correct.

PROGRESS OF RENEGOTIATIONS—FSLIC DEALS

Senator MIKULSKI. How many contracts have we bought out or how many deals have we renegotiated?

Mr. SEIDMAN. Well, we have not completed any of them, but we have in negotiation or bought out—what's the total?

Mr. ROELLE. We have 32 transactions. We are working on the major transactions. We have two transactions that will be reported in our next monthly report that we have bought out. We have another 18 institutions that we are going to prepay their notes and we have already started that process. So, the savings are already underway because each time we prepay a note, we have begun to reach some savings. Those notes will either be repaid or marked down to current Treasury rates by June 30. So, we basically have all of that underway. Some of the notes have already been prepaid. So, in cases where we were paying 300 basis points over Treasury's, we are now paying only Treasury's and that savings has been realized.

Senator MIKULSKI. Thank you. That clarifies that.

I would like to come back to other questions that have arisen in the cost of the bailout.

FDIC/RTC USE OF OUTSIDE COUNSEL

The news media recently reported that RTC—and this goes to the legal fees and the fees of doing all these transactions because again people feel that their life savings were at risk, but that they are people who do the transactions and whether they are for the good guys or whatever, they make megabucks. So, it is the transactors who are making a lot of money, and there is a question about the level of fees they charge. Senator Metzenbaum raised those, and a lot of these you have heard during the authorizing debate.

The news media recently reported that RTC and FDIC are paying more than $600 million a year in legal fees. FDIC says their lawyers are recovering a lot of money. The cost of the bailout has to be a lot more than the insured deposits themselves.

First of all, are we getting our money's worth for all these legal fees, and is there any way that we could be reducing the legal fees?

Mr. SEIDMAN. I think we can.

Senator MIKULSKI. Or is that just a cheap shot at you?

Mr. SEIDMAN. Well, it is certainly reasonable to ask us what we are spending $600 million for on legal fees. I have no doubt that the taxpayers have every right to question us on that. I have questioned that.

We have about 148,000 active lawsuits that we are involved in now. So, our legal fees are going to be very high because every time we take over an S&L or a bank, we get all the suits that they have, all the foreclosures and all the rest. However, the largest part of those fees in terms of large fees to firms we inherited from FSLIC. We had a rule in our organization that we would not pay over $2 million to any legal firm without appropriate approval at the highest level and that meant the chief counsel. They paid a number of firms in the area of $20 million. So, we are going to be dealing with those very large fees that we have, and we have put a system in place to deal with that.

We are also putting in an approved system of monitoring all the cases. We are requiring audits of the fees by our auditing groups. So, we believe we can improve on the performance that we have had and particularly on some of the problems that we inherited.

But we are going to have very large legal fees. We have hired almost 1,000 lawyers since we started the RTC to deal with this huge number of lawsuits. I can only say on my behalf, Madam Chair, that when I came to the FDIC, we had 28,000 lawsuits. Before the RTC got loaded on us, we had reduced that to 11,000. It has now gone back up to 148,000. So, it is a discouraging business.

But we do know how we can move on that and we are moving on it, but it is a very difficult job.

Senator MIKULSKI. Well, 1,000 lawyers is a lot of lawyers. I don't know what the billable rate is. I am not minimizing how technical these transactions are and to do it right. I think you know that I certainly voted for the new authorization, and I do believe that you need the resources so that we can come to closure.

But according to our quick calculation, if the billable hours are 500 bucks an hour, which is a lot of money, we still would be buying about 1.2 million hours' worth of work.

Mr. SEIDMAN. Yes; it is horrendous. Unfortunately, the number of lawsuits is going to go up. We have taken over 550 institutions. We probably have another 200 to 300 to take over, and every one we take over, we get another bale of lawsuits. Most of these lawsuits involve trying to collect money that was owed these institutions, cleared the titles on properties that these institutions defend against people who are suing the institutions for not making loans or other reasons, suing directors and officers, and so forth. So, we are a very litigious organization unfortunately. We are putting into effect strict cost-benefit rules so that we are not pursuing litigation unless we can show that it is cost effective for us to do so.

Senator MIKULSKI. I am going to have one more question before I turn it over to Senator Kerrey.

INCREASED CONTRACTUAL OBLIGATIONS

Our responsibility, of course, is for pre-FIRREA. The $22 billion was to help you renegotiate, but there were those original estimates for contractual obligations that you originally requested. Let me go to my question.

My concern is about underestimating so that when we then actually get into what we need to appropriate, there we are in the summer and we find that it has doubled or tripled.

In 1990 you told Congress that the 1991 contractual obligations were about $2.9 billion. By the time we got to October, they were fixed at $4.8 billion. Now they are $6.4 billion. Is there any reason why this is such a moving amount when it is actually double what we said?

Mr. SEIDMAN. Well, first I would like to thank you, Madam Chair, for your kind comments since I appreciate that that was hard to do looking at the record that you have just recited.

Our problem is, of course, we are reciting the costs under contracts where we are obligated to pay amounts, and those amounts vary with property values and interest rates and market conditions so that our income maintenance contracts depend upon what happens in the marketplace. If the marketplace goes against us, then our costs are higher. It is particularly true that we are dealing with real estate, and those markets have been very weak. The weaker they get, the higher our costs go.

Senator MIKULSKI. So, you are saying that the recession and the depth of the recession increased the cost.

Mr. SEIDMAN. That increases our cost.

Senator MIKULSKI. Since the depth of depression and the prolonged nature of it was more than what was originally forecast by so-called experts——

Mr. SEIDMAN. That is correct.

Senator MIKULSKI. And that there has essentially been a devaluation——

Mr. SEIDMAN. Yes.

Senator MIKULSKI. Not only were a lot of the properties of bad judgment and poor risk, but now even the good properties have devalued. Is that part of our problem?

Mr. SEIDMAN. Most all of these are bad properties, and they have gotten worse. These contracts did not really give the contractors an incentive to do a good job of managing them. So, the losses were higher than we expected. The incentives in the contracts were all to keep property off the market and to manage the contract rather than manage the property. As a result of that, the incentives led to higher costs. That is why we are trying to buy these contracts out, get out of the kinds of contracts that have perverse incentives.

The GAO reported on the incentives and pointed out that they were going to increase the cost because they simply did not provide the appropriate incentives for the contractors to do the job that would reduce costs.

Senator MIKULSKI. Do you think the recession is going to continue and these deals are going to get even more devalued?

Mr. SEIDMAN. Well, over a long career, I have tried to predict the economy with very little success. So, I am not going to try to tell you that I know.

Senator MIKULSKI. I feel about the economy the way I feel about the Preakness. I like to go and be part of it, but you never know what is going to happen to it.

Mr. SEIDMAN. We follow it very carefully. I can tell you that this time we are seeing in the real estate markets the first signs that the housing market may have bottomed out in most areas and that there is some indication that we may see some improvement. We are not seeing that kind of improvement in the commercial real estate markets which continue to be in recession in a great many parts of the country. And overall the economy is showing some signs of leveling out. The purchasing agent's report shows that. Consumer confidence shows that. So, we may be looking at the turnaround sometime soon, but it is really too soon to tell.

Senator MIKULSKI. Senator Kerrey.

REVIEW OF S&L CRISIS

Senator KERREY. Mr. Seidman, I will as well join Madam Chair in heaping praise on you for the job that you are doing. I know it is a thankless task. Essentially it seems to me what we are trying to do is repair damage that was done in the decade of the 1980's. We are paying past due bills. Every transaction that is done is one that is likely going to be viewed by the public as a waste of money. There is hardly any transaction—even where we can assert that by bringing tax dollars in now, we are lowering the cost, it is not likely to be the sort of thing that taxpayers are going to reward us with generous rounds of applause.

I continue to be concerned, as you know, with the accountability side. I have some questions that I would like to submit to you because I suspect later this spring before the Banking Committee a discussion of reorganization of the RTC will occur then. I essentially have in my series of questions here a focus of what I think we need, and that is a public board that is a full-time board with a strong chair that can go to the public and say here are the policy options that we have. They are very difficult to make. Senator Garn referenced one earlier. It is a very difficult political issue, and it is likely to be that in order to do the right thing, we have to do something that is in conflict with something we would rather do.

REVIEW OF 1988 DEALS

To that end of trying to build confidence, I am genuinely concerned by the testimony that you provide in regard to the report on the 1988 deals. First of all, in contracting with these two law firms, was it your idea that this was to be an independent evaluation? Steptoe & Johnson, for example?

Mr. SEIDMAN. Yes.

Senator KERREY. This is supposed to be an independent report?

Mr. SEIDMAN. That is right. We gave them the statute, which required this review, and asked them to make an independent review under the statutory requirement.

Senator KERREY. Is Steptoe & Johnson one of the outside firms—Madam Chair was focusing on that a little bit. I understand it's $600 million of outside legal fees. Is Steptoe & Johnson one of the outside firms that FDIC regularly employs to do other work?

Mr. SEIDMAN. I don't know.

Do you know that?

Mr. ROELLE. No, sir; they have been employed from time to time, but they are not a major law firm with regard to the FDIC. I think the RTC has used them.

Senator KERREY. Well, what would you regard as major?

Mr. ROELLE. I don't know the exact fees, but I don't think——

Senator KERREY. Can you give me the fees that were paid to Steptoe & Johnson in the 1980's including specifically what they received in 1990 so that I can make some sort of evaluation of whether or not they are significant?

Mr. SEIDMAN. We will provide you that both for the FDIC and the RTC.

[The information follows:]

Our automated vendor report contains no records for fees paid to Steptoe & Johnson before 1987. For the years 1987 through 1990 the following fees were paid to this firm:

1987	$217,550.58
1988	250,802.97
1989	453,619.77
1990	945,847.38
Total	1,867,820.70

SUMMARY OF RESULTS FROM 1988 DEAL REVIEW

Senator KERREY. Because it seems to me it relates to the independence question. If, for example, the partner who bid the work, let's say—I'm not sure this is the case, but if I'm a partner in that firm and I've got a regular relationship with FDIC, I am going to be a bit careful in how I—it is going to be difficult for me to have that kind of independence particularly on the question of did we have competitive opportunities.

The point that concerns me in your testimony is you seem to be saying that the competitive process wasn't a problem, that it was relatively competitive. You are shaking your head. That's not what you're saying?

Mr. SEIDMAN. No. Well, I think that would be a misinterpretation. I didn't want to interrupt you.

Senator KERREY. Well, I don't mind being interrupted because you emphasized the shortage of cash and placed as a secondary emphasis the competitive problems that occurred in 1988 deals.

Mr. SEIDMAN. Well, Senator, I think they said very clearly, and we concur, that the competitive process was not an appropriate one and not one we could support as being the right way to handle the bidding process. However, it was not of such a nature that we felt that we could set aside the contracts or that they could advise us that we could set aside the contracts because of that process.

Senator KERREY. Yes; I'm less concerned about the need to set aside the contracts as I am about making sure that we have a full clearing of the air so that the public has a sense that we understand the need to have a competitive process for future deals.

NAMES REDACTED FROM FINAL REPORT

I guess I am particularly concerned when one of the more significant ones of all, the failed transaction, is referenced in footnote 250 without proper identification or—I mean, an unwillingness to identify the Federal Home Loan Bank Board individual who was interviewed. The bidders are still themselves unnamed. That was referenced as a nongermane item. It seems to me that the Steptoe & Johnson report is extremely cautious in providing the public with the kind of information that the public needs I think to make a determination on their own as to whether or not the process was competitive.

Mr. SEIDMAN. Well, I think you have reference to the names that were redacted and taken out. We did that—the law firms didn't do that—on the basis that a great many innocent parties might be inadvertently put in embarrassing positions if every name that was mentioned was brought out in public, something like a grand jury proceeding. But we have said to the Congress they are available to you if you want them.

Senator KERREY. The problem, of course, is I then begin to be in the business of making an evaluation and have to almost become a special prosecutor myself, which I do not want to do. The fact is that the public comes and says through the press I would like to get the list of the names of the people who bid. I don't find the rationale that we don't want a grand jury type investigation to be terribly persuasive. And making it available to me could, in fact, create an environment that you seek to avoid it seems to me.

Mr. SEIDMAN. Well, I think we did that because we were trying to be cautious, but I certainly have no objection. If upon review the committee believes we ought to report the matter in full to the public, we are certainly ready to do that. I don't have any objection. I think there may be some things that would be unfortunate results of that in terms of people's names being involved in things where it really might be inappropriate, but on the other hand, I don't really have any objection if the feeling of the Congress is that these names should be put back in.

Senator KERREY. I feel strongly that they should, Mr. Chairman, because again, it relieves me of the requirement of having to become an independent investigator on my own which, it seems to me, you don't want either.

Mr. SEIDMAN. Well, I will be happy to review that in light of your views and see what the feeling of our board is on that matter.

[The information follows:]

After meeting with Senator Kerrey, the RTC provided him with an unredacted copy of the report prepared by the law firm of Steptoe & Johnson regarding the competitiveness of the marketing and sales process used by the FSLIC in 1988.

PEER REVIEW REPORT NOT ANALYZED

Senator KERREY. In addition, can you comment? Steptoe & Johnson did not do an analysis of the peer review that the Office of Supervision had done. Is that a disturbing thing to you?

Mr. SEIDMAN. I am not, I guess, really aware of that. Maybe some of my people can answer that. I know the peer review was done.

Ms. CREEDEN. I am Mary Creeden, Associate Director of FSLIC Operations at the RTC.

The peer review process, as I understand it, was an analysis conducted of each Federal Home Loan bank at the point that the Federal Home Loan banks had both the credit and supervisory function under the bank board system.

Senator KERREY. Done by the examiners.

Ms. CREEDEN. No; it was done by a combination of staff from other Federal Home Loan banks and Washington staff, as I recall it.

Senator KERREY. And why wasn't that information evaluated by Steptoe & Johnson in their report?

Ms. CREEDEN. Sir, I don't know.

Senator KERREY. Well, their answer was that it wasn't available to them. And it was on file with OTS. It seems to me it is a rather important piece of information, again on the question of trying to make certain that the public has the information that they need as you go into the future to have confidence that the process itself is competitive.

Mr. SEIDMAN. I don't know. Do you know why that wasn't made available to them?

Mr. ROELLE. I don't know, but we can certainly find out.

Mr. SEIDMAN. I will find out. That is the first I have heard about it. So, we will look into it and see and give you a reply.

[The information follows:]

The Office of Thrift Supervision was asked to provide to Steptoe & Johnson all materials relevant to the review of the competitiveness of the 1988–89 FSLIC assistance transactions. The OTS did not provide the report in question, as it was deemed not relevant. The RTC subsequently requested a copy of the peer review from the OTS, which it in turn provided to Steptoe & Johnson. Their view confirmed that the peer review was not relevant to the review, and that it would have had no impact on Steptoe & Johnson's findings. A copy of their letter to the RTC is attached for your review.

LETTER FROM ELLEN D'ALELIO, STEPTOE & JOHNSON, ATTORNEYS AT LAW

April 12, 1991

PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT

By Hand Delivery

Mr. Louis E. Wright
Associate Director
Resolutions & Operations Division
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434-0001

Dear Mr. Wright:

You recently requested that we review a 1988 peer review report pertaining to the Ninth District Federal Home Loan Bank ("Peer Review Report") as a follow-up to the work that we performed for RTC in preparing Volumes I and II of the Report submitted by Resolution Trust Corporation ("RTC") to Congress pursuant to Section 501(b)(11)(B) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the "Southwest Plan Report").

As you will recall, the Office of Thrift Supervision ("OTS") did not make the Peer Review Report available to us in connection with our comprehensive review of documents in the custody, possession or control of OTS as part of our preparation of the Southwest Plan Report, and we learned of the Peer Review Report from a newspaper account describing it as we were about to deliver the completed draft Southwest Plan Report to RTC.

At your request, OTS has now made the Peer Review Report available to us, permitting us to review a copy at its offices. We briefly reviewed its entire contents at the OTS offices on April 10, 1991. Based upon that review, we do not believe the conclusions set forth in the Southwest Plan Report would have differed in any respect had the Peer Review Report been made available to us earlier.

The peer review that was the subject of the Peer Review Report was conducted during the period February 29 through April 8, 1988, before the closing of any Southwest Plan transactions. The Peer Review Report focuses upon various procedures, practices and conditions at the Federal Home Loan Bank of Dallas ("Dallas Bank") leading up to that period that may indirectly have contributed to the failure of many Ninth District institutions. It includes case studies of the supervisory and examination history of certain failed institutions that ultimately were acquired in Southwest Plan transactions. To the extent that these matters are relevant to the Southwest Plan Report, they simply provide corroborative evidence regarding the condition of the industry in Texas and the procedures of the Dallas Bank during the period preceding the development of the Southwest Plan and during the first several months when initital steps to implement the Southwest Plan were undertaken.

The Peer Review Report does not address or even comment upon either the Southwest Plan or upon FSLIC case resolution procedures generally. Nor does it provide new or different information concerning Southwest Plan acquirors or about the competitive processes used to market thrift packages and select the successful bidder under the Southwest Plan. Rather, it focusses upon the supervisory and other problems that gave rise to a need for the Southwest Plan in the first instance. Accordingly, we do not believe the Peer Review Report undermines or detracts in any way from the conclusions set forth in the Southwest Plan Report.

I hope that this brief summary of our views is useful to you. Please feel free to call me if you have questions about these matters.

Sincerely,

Ellen d'Alel

Ellen d'Alelio

CLARIFICATION ON SUFFICIENCY OF COMPETITIVE PROCESS

Senator **KERREY**. Well, are you saying then in your analysis that the competitive process—and again just so I am clear on this—was satisfactory enough that you are not alarmed by the nature of the transactions that were done for 1988?

Mr. **SEIDMAN**. No; that is not my view at all. I think the process was unsatisfactory, and I think that we ought to do everything we can to amend that. But our lawyers advised us that it was not so unsatisfactory that we would have the right to set aside the deals. So, we really can only say it was an unsatisfactory process. It was one that should be done in a much different way, but the question is what can we do about it now. And we can only say that it was not satisfactory. We gave the reasons why we thought it wasn't satisfactory.

Senator **KERREY**. The reason I focus on it, Mr. Chairman, is because it seems to me that the environment of the transaction is going to have to be similar to transactions in the future. In other words, you are going to have to make a decision that makes economic sense for the private sector, otherwise the private sector is not apt to do it, which means somebody is going to be a return on investment that might, to the average taxpayer, look excessive. They might get angry about it. And if you are trying to minimize the cost to the taxpayers, you have to move quickly.

So, it seems to me that it is important to provide full disclosure of those 1988 deals in order to give the public the confidence that we are aware that we did some mistakes, that it wasn't just a question of—I read the testimony, and I apologize if I am getting it wrong. But I read the testimony and I get an emphasis on the lack of cash in 1988 that caused the problem as opposed to the closed nature of the negotiation itself. It seems to me fair to say that the negotiation was extremely closed. If you had the possibility of inside contact with FSLIC, you were much more likely to be able to get selected for a deal than if you didn't have inside contact with FSLIC, that the ability to be able to get inside was this very, very important determinant in whether or not you were selected in one of the deals. And that projects something very bad to taxpayers for our current workout. That essentially says to them it matters who you know if you're trying to get some of the Federal money that is available to work out these S&L deals.

Mr. SEIDMAN. Well, I agree with you, Senator. It does matter. These deals were not done in the way that we believe they ought to be done in terms of openness of the bidding process. The report shows that. And if there is an undue emphasis on cash, I suppose that is because we are before the Appropriations Committee talking about cash. But I do not want in any way to imply that we think the deals were done properly or that deals in the future should be done that way. We do not.

STATUS ON DECISION TO MAKE NAMES PUBLIC

Senator KERREY. When will you make a determination on whether or not to provide to the public the names that were redacted in that report?

Mr. SEIDMAN. Well, we can do that promptly. We will take it to our board at the next board meeting——

Senator KERREY. I would appreciate it.

Mr. SEIDMAN [continuing]. And see what their view is. There were some legal objections and so forth. But we will review it and we will discuss it with you, and it may well be that we can release them.

Senator MIKULSKI. Senator Kerrey, those were excellent questions, and thank you for pursuing them.

FLUCTUATION IN INSURANCE ASSESSMENTS

Mr. Seidman, I just want to wrap up a point here. We know that FDIC is not used to requesting appropriations. And we normally have a list of justifications. Your 1992 request does not answer some basic questions or some justifications.

For example, we do not know why the insurance assessments go from $900 million in 1991 to zero in 1992. The sum of $174 million is proposed for something called other services, but it doesn't tell us what other services are. That is $174 million. That is a lot of money.

And if you still have close to $9 billion for 1991, what have you decided to do with it? And therefore, what are its implications for 1992? Would you comment on those?

Mr. SEIDMAN. I appreciate your recognizing that this has not been our normal mode of operation, so we are learning as go along. But we want to learn, and we want to provide you with all the information that you need. And we can certainly provide you with details on the items that we have given you. I think I have given in my testimony the basic use of the funds that we have on hand. And they are being used to meet the obligations under the contracts, and then they are being used to buy down these contracts in the way that I have outlined. But we will be happy to provide you with any additional details and your staff——

Senator MIKULSKI. Would you or your team comment on why the insurance assessments go from $900 million to zero in 1992? That is a big drop.

Ms. CREEDEN. Ma'am, would like to provide some detail for the record. I believe it has to do with the phasing in of SAIF——

Senator MIKULSKI. Of SAIF?

Ms. CREEDEN [continuing]. And phasing out of FICO and some of the issues of that sort that relate to funding that was in place pre-FIRREA.

[The information follows:]

Section 215(b)(4) of FIRREA provides that, through December 31, 1991, amounts assessed against Savings Association Insurance Fund [SAIF] members by the FDIC which are not required either by the Financing Corporation [FICO] or the Resolution Funding Corporation [REFCORP] shall be transferred to the FSLIC Resolution Fund [FRF]. During FY 1991, approximately $950 million in SAIF assessments will be transferred to FRF. After September 30, 1991, however, all net SAIF insurance assessment proceeds not required to pay interest on FICO or REFCORP bonds go to SAIF and are not available to FRF. Thus, the language of FIRREA accounts for the zeroing out of this particular source of FRF funds.

Senator MIKULSKI. For the record, could you say what SAIF is?

Ms. CREEDEN. SAIF is the savings association insurance fund.

Mr. SEIDMAN. It is the S&L insurance fund, the new S&L insurance fund.

Ms. CREEDEN. That is not yet operative.

Senator MIKULSKI. I see.

Mr. SEIDMAN. And when it becomes operative, it will be funded by premiums. So, they will no longer be part of the appropriation process.

Senator MIKULSKI. So, it will be premium based.

Mr. SEIDMAN. Once it is put in place and funded by appropriations, then all the premiums go in there. Now they are going to pay the FICO bonds.

EXPLANATION FOR EXPENDITURE—OTHER SERVICES

Senator MIKULSKI. What about the $174 million in other services?

Ms. CREEDEN. We will attempt to provide detail on that for the record. It includes services not only related to management of the assistance contracts, but also to the 90-some receiverships that FDIC took over from the FSLIC following the passage of FIRREA.

[The information follows:]

The President' s budget for FY 1992 contains an error. The FY 1991 and FY 1992 object class estimates for the FSLIC Resolution Fund [FRF] are approximately 70 percent too high. You will note this problem when comparing the FY 1991 estimates to FY 1990 actuals. The error occurred because an estimated 70 percent of all direct expenses are charged back to, and recoverable from, receiverships. This calculation was erroneously omitted in the preparation of the object class table.

Consequently, the FY 1992 estimate of $174 million as contained in the President's budget for Other Services should read $52.2 million. This compares to a revised Other Services estimate for FY 1991 of $54.9 million. Other Services has become the largest single object classification of the FRF. The FY 1992 estimate of $52.2 million breaks out as follows: $15.2 million for outside legal fees and services, $1 million for accounting services; $1 million for systems analysis and computer services; $20.4 million for a combination of asset maintenance and sales fees, commissions, and management contracts and appraisals; and $2 million for advertising. The balance of $12.6 million is comprised of a variety of FDIC apportioned overhead items. In reviewing this object class it is important to recognize that these outyear estimates are driven by historic FRF shares of expense categories for the entire FDIC. The revenue items in the budget for corporate asset sales and liquidation collections/dividends are achievable at their magnitude due to many of these expenses.

Senator MIKULSKI. But are they actually the servicing of contracts, or are they paying for technical teams?

Ms. CREEDEN. This would include things such as legal fees, property management fees, accounting services, services to market and sell assets, various kinds of consulting services needed to either directly dispose of assets or to manage the——

Senator MIKULSKI. And these are——

Ms. CREEDEN. To manage the contractual obligations.

Senator MIKULSKI. Essentially you are holding these properties. They need to maintained. They need to be managed. And as you are getting ready to move them out into the marketplace, then that would be some of the other transactions. This is essentially related to the properties rather than to, say, the S&L institution that might be holding the property.

Ms. CREEDEN. It would be related either to the properties—the litigation associated with these cases—or management of the contractual obligations of assistance agreements.

Senator MIKULSKI. I see. That answers it.

LENDERS TIGHTENING CREDIT STANDARDS

Mr. Seidman, the last question to you goes not to my appropriations but I have to raise it. It deals with what is perceived and being experienced by many in the business community of what they are referring to as a credit crunch. And you, like me, want credit available only to creditworthy investors, that the project should be a good deal and that the borrower should be credit worthy.

But we are hearing all kinds of horror stories about people who are trying to do real estate development for projects that by all traditional assessment would be viewed as worthy. They are not speculative office buildings, maybe a retirement community for the elderly. The lenders themselves are people who have been in the development business, some with even longstanding families or deep pocket investors, and they are having a heck of a time. Of course, they are calling me to relax the credit crunch. And I am saying, well, the credit should be available to—my two criteria—if deal is a good idea and the lender is an even better idea.

Could you comment on what you are seeing in the marketplace? One, is there really a credit crunch and, No. 2, how can we make sure that the good guys have access to credit so that the economy continues but we weed out the kind of the go-go casino-type real estate deals?

Mr. SEIDMAN. Madam Chair, I think that in looking at the situation, you can say that clearly there is change in credit standards based on our experience in the 1980's, and that there are a great many loans that are not being made today that would have been made under the standards in the 1980's, particularly in construction and development. Our statistics show a very sharp falloff in construction and development loans. That reflects, one, an overbuilt condition in many areas of the country; and second, a change in standards.

I made a little speech the other day in which I said that if we had had three standards in place for construction loans over the last half of the 1980's, we would not be facing the kind of stress that we are looking at in the bank insurance fund and some of these S&L costs. And that was that banks would no longer lend on raw land. They no longer would lend on a long-term basis. They would have to have a takeout after 3 years. So, they're short-term lenders. That is what they are supposed to be. And the borrower would have to have a real equity of at least 20 percent. And a lot of those standards are being put in.

And that is a credit crunch to an awful lot of builders who thought that those kinds of standards had been done away with. Those were the standards back in the 1970's and 1960's. We lost track of a lot of those standards. And for those people there is a restriction in credit which I think is highly desirable.

On the other hand, as a result of the recession and the overbuilding, we have a real recession in many areas of the country. This has affected banking institutions. They have in some cases, I think, perhaps become overcautious, and it has become much more difficult to get a loan.

Now, if you look at our overall statistics, lending on real estate in banking increased in 1990 by a small amount, but they do not indicate that overall there is this kind of a credit problem. But there certainly is in certain areas and for certain types of loans.

The regulators have just put out some clarifications on their rules designed to make it clear that the standards for loans do not require banks to stop loaning and stop making good loans. The professional staffs got together and put that out. We think that will be helpful, but it certainly is not going to take care of all of your constituents and all the complaints that you have seen. There is only really one thing that is going to do that and that is to have an end to the present recession.

Senator MIKULSKI. Well, an end to the present recession and also clear criteria that is uniformly followed throughout the banking industry that really meets the test of safety, soundness, and good investment. Your criteria are very fine criteria, and I am not for relaxing criteria. But there seems to be a lack of clarity and consistency——

Mr. SEIDMAN. Well, that is why we put out the statement.

Senator MIKULSKI [continuing]. Even among the regulators.

Mr. SEIDMAN. Well, the regulators just put out a statement about a week ago which attempted to clarify all those areas—appraisals, concentrations, loan splits, all of the different areas. And we have to be very careful that we do not end up with an S&L-like weakening of accounting standards so we lose all track of what we are really doing. So, we are walking a very narrow line wanting to make very clear what the standards are and making sure they're appropriate to the environment and at same time not watering them down in a way that will allow us to get in the trouble that we got into with the S&L's.

Senator MIKULSKI. Well, we absolutely concur with you. We do not need another S&L crisis either in the banking industry or in the credit union industry or in any of our financial institutions. And as we look at the reform proposals, we look forward to working with you.

We thank you for your testimony today. It has been a fascinating conversation. We could go on. And we thank you for your candor and your cooperation, and we look forward to other information.

Mr. SEIDMAN. Thank you.

OFFICE OF THE INSPECTOR GENERAL

STATEMENT OF JOHN J. ADAIR, INSPECTOR GENERAL, RESOLUTION TRUST CORPORATION

Senator MIKULSKI. Our next witness is going to be Mr. John Adair, the RTC's inspector general. And for all practical purposes, 1991 was the inspector general's first year of operation.

Mr. Adair, for all practical purposes, 1991 was your first year of operation. The RTC inspector general has been responsible for monitoring the resolution of those S&L's that failed after the passage of FIRREA. But I understand recently you also assumed responsibility for the FSLIC resolution fund as well.

Mr. ADAIR. That is correct.

Senator MIKULSKI. So, this committee has responsibility for the FSLIC resolution fund, the pre-FIRREA deals, as well as funding the inspector general for the post-FIRREA situation.

STAFFING LEVEL

Now, for fiscal year 1992, the administration proposes a budget of $30.3 million to raise the inspector general staffing level from 150 to 356. This is double last year's request. It is a substantial increase, and we look forward to hearing your testimony and the explanation of why you would need this increase.

Mr. ADAIR. Thank you, Madam Chair.

As you indicate, this $30 million request is a substantial increase over our 1991 funding. We believe it would be a wise investment, however, to help ensure that RTC's operations are not marred by the fraud and mismanagement characteristic of the events leading to the S&L crisis.

As you mentioned, I was sworn in as RTC's first inspector general in April of last year. In fact, you may recall that in May I testified before this subcommittee, and at that time I had a staff of four people. We were just getting underway. Since that time, we have set up our headquarters and regional offices, hired 150 staff, established policies and procedures, developed an audit plan, and carried out a number of audit and investigative activities.

RTC'S OPERATIONS

Before I discuss how we plan to use the $30.3 million that we are requesting, I think it would be appropriate to give you some background information on RTC's complex operations and describe the areas of operations having the greatest need for audit and investigative coverage.

As you know, RTC was established in August 1989 to manage and resolve failed S&L's placed in conservatorship or receivership between January 1989 and August 1992.

RTC currently employs more than 5,000 people, the vast majority of whom are located in 4 regional and 14 consolidated offices throughout the country. From its inception in August 1989 through the end of last year, RTC had seized 531 thrifts and of that, they had resolved 352 with the remaining 179 under RTC conservatorship. At the end of last year, RTC held assets of about $144 billion, of which $58 billion were held in receiverships, $86 billion were held in conservatorships. The amount of assets that RTC must dispose of will increase as additional thrifts fail. The estimates of the number of thrifts that will be ultimately resolved range from roughly 700 to 1,000 institutions.

The magnitude of RTC's undertaking has resulted in RTC being placed on the General Accounting Office's list of Federal programs deemed to be high risk in vulnerability to mismanagement, fraud, and abuse.

ORGANIZATION AND OPERATIONS OF OFFICE OF INSPECTOR GENERAL

The President's fiscal year 1991 budget included about $11 million to fund the operations of my Office. The $11 million funding was based on a budget request developed by the staff of the RTC Oversight Board to support an inspector general with a staff of 150 people. We have hired virtually all 150 staff contemplated when my Office was initially planned. The staff is located in headquarters and four regional offices.

My Office assessed the extent of risk in the major areas of RTC's operations. I want to discuss some of the vulnerable areas so that the subcommittee will know the risks facing RTC management and ultimately the taxpayer.

The first area is asset management. As I mentioned, RTC controls about $144 billion in assets across the country, and as evidenced by prior scandals at HUD and other Federal agencies, the area of asset management and disposition is particularly vulnerable to fraud, waste, abuse, and mismanagement. We plan to devote substantial resources to that area.

Another highly vulnerable area is contract management. From its inception in August 1989 through January of this year, RTC has awarded nearly 5,500 contracts with estimated fees of over $300 million. RTC's use of the private sector, though necessary, provides substantial opportunities for fraud, waste, and abuse to occur.

A third vulnerable area is conservatorship operations. This is where RTC manages the thrifts that have been declared insolvent by the Office of Thrift Supervision. There are three major components of conservatorship operations that we will be focusing on: the actions of RTC's managing agents, the funding of the conservatorship, and RTC's investigative efforts wherein RTC looks at the possible culpability of the directors, officers, accountants, lawyers, and any others that may have been involved in the downfall of the failed thrift.

The fourth highly vulnerable area is the hiring and personnel practices of RTC. RTC has had to hire thousands of employees in a very short period of time to carry out its mission, and we want to be sure these employees do not have a conflict of interest or other problems.

Now, in addition to these four highly vulnerable areas, we are looking into other areas of operations that are also vulnerable, including information management systems, the resolution process where thrifts are sold to banks or other thrifts, receivership operations, and funding and finance, which includes the $6.6 billion in junk bonds held by the RTC.

We are also, as Chairman Seidman noted, responsible for reviewing the $22 billion program for restructuring the so-called '88 deals.

In addition, we have begun an audit of the RTC legal fees because we think that this is an area that is in need of review, given the magnitude of costs incurred by RTC for legal services.

NEED FOR ADDITIONAL OFFICE OF INSPECTOR GENERAL RESOURCES

The original budget estimate of 150 staff and the resultant appropriation may have been reasonable to start an inspector general operation at RTC. However, as I stated last spring before this subcommittee, we could not know what was truly needed for staffing until we had the opportunity to assess the magnitude of RTC's operations and the associated risks. Based on the surveys we have conducted to identify vulnerabilities, I have concluded that more Office of Inspector General staff and field offices are needed than originally contemplated.

Some factors that led to this conclusion include the larger than anticipated thrift crisis requiring the resolution of more thrifts and the management and disposition of far more assets, the extensive use of contractor personnel to carry out much of RTC's work, and the delegation of significant RTC responsibilities to regional and consolidated office staff.

I believe my Office will need about 350 people by the end of fiscal year 1992 to fully and vigorously fulfill our audit, investigation, and oversight responsibilities. This will enable us to put appropriate resources not only in the regional offices, but in the consolidated offices as well. The consolidated offices are where the receiverships of the failed S&L's, the remnants so to speak, have been brought together in an office, and there are 14 of those across the country.

I might add parenthetically that last April when I came on board, Chairman Seidman invited me to have lunch with him, and at that time he mentioned that he thought that our organization should have a presence in each of the consolidated offices. After reviewing RTC's operations, I have come to the conclusion that he was correct. We would like to operate in that fashion with staff in those offices.

Our budget request for fiscal year 1992 totals $30.3 million and 281 full-time equivalents, which is an increase of about $19.5 million and 131 FTE's over fiscal year 1991. We would require an estimated increase of $6 million simply to fund our operations in fiscal year 1992 at the 1991 approved level, but we feel that would be insufficient to provide the oversight capabilities crucial to the operation of an entity as diversified as RTC.

So, our fiscal year budget request includes increases of about $8 million and 76 FTE's for additional auditors, $4.4 million and 43 FTE's for additional investigators, and approximately $1 million and 12 FTE's to manage our Office, oversee the quality of audits performed by public accounting firms, and provide appropriate legal counsel and support for our staff.

Additional details supporting our budget request are in documents we have provided to your staff for inclusion in the hearing record.

Madam Chair, most Americans are now acutely aware of the extent and personal cost to them of the crisis in the thrift industry. And, of course, nothing can be done to erase the losses already incurred, but we can at least ensure that the American taxpayer is not pillaged a second time during the cleanup of the thrift debacle. That is the primary mission of my office and the reason we are seeking this increase in our appropriation for fiscal year 1992.

That concludes my testimony. I would be happy to answer any questions you may have at this time.

[The statement follows:]

STATEMENT OF JOHN J. ADAIR

Madam Chair and members of the Subcommittee, thank you for inviting me here today to present our fiscal year 1992 budget request for $30.3 million to fund the operations of the Office of Inspector General of the Resolution Trust Corporation (RTC). Although this budget request is a substantial increase over our funding for this year, we believe it is a wise investment to help ensure that RTC's operations are not marred by the fraud and mismanagement characteristic of the events leading to the savings and loan crisis.

Congress included a provision in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) which established an Office of Inspector General at RTC by amending the Inspector General Act of 1978. I was sworn in as RTC's first Inspector General in April 1990. Since then, I have set up our headquarters and regional offices, hired staff, established policies and procedures, and carried out audit and investigative activities.

Before I discuss how we plan to use the $30.3 million that we are requesting, I want to give you some background information on RTC's complex operations, discuss how the Office of Inspector General has been organized thus far, and describe the areas of RTC's operations having the greatest need for our audit and investigation coverage.

RTC'S OPERATIONS

RTC was established in August 1989 to manage and resolve failed savings associations placed into conservatorship or receivership between January 1, 1989, and August 9, 1992. RTC is an extremely diversified organization with management responsibilities for 40,000 properties, contracting efforts second only to those of the Department of Defense, investment banking transactions comparable to those handled by major Wall Street firms, and other responsibilities associated with operating and liquidating financial institutions.

RTC currently employs more than 5,000 people, the vast majority of whom are located in 4 regional and 14 consolidated offices throughout the country. From its inception in August 1989 through December 1990, RTC seized 531 thrifts, of which 352 were resolved and 179 remain under RTC conservatorship. The Chairman of RTC testified before the House Budget Committee last month that the 531 institutions seized by RTC had assets with a gross book value of $271 billion—more assets than Citicorp. As of the end of December 1990, RTC held gross assets of about $144 billion, of which $58 billion were held in receiverships and $86 billion were held in conservatorships. The amount of assets that RTC must dispose of will increase as additional thrifts fail. Estimates of the number of thrifts that will ultimately be resolved range from roughly 700 to 1,000 institutions.

The magnitude of RTC's undertaking has resulted in RTC being placed on the General Accounting Office's list of federal programs deemed to be high risk in vulnerability to mismanagement, fraud, and abuse. The Office of Inspector General's mission is to ensure that RTC's operations are carried out economically, efficiently, and effectively, and that fraud, waste, abuse, and mismanagement are prevented, detected, or minimized.

ORGANIZATION OF THE OFFICE OF INSPECTOR GENERAL

My office is aligned based on the functional responsibilities legislated by the Inspector General Act of 1978, as amended. We have Assistant Inspectors General for (1) Audit, (2) Investigation, (3) Oversight and Quality Assurance, and (4) Policy, Planning and Resources. Because RTC has a decentralized organization, we have initially established audit and investigation offices in the four cities where RTC regional offices are located as well as at headquarters in Washington, DC.

The President's fiscal year 1991 budget included about $11 million to fund the operations of my office. The $11 million funding was based on a budget request developed by staff of the RTC Oversight Board to support an Office of Inspector General of 150 people.

We have now hired almost all 150 staff contemplated when my office was initially planned. The staff is located at headquarters and in our four regional offices.

AREAS TO BE AUDITED AND INVESTIGATED

My office has assessed the extent of risk in the major areas of RTC's operations. Our audit and investigation approach is targeted towards those areas where we have judged there is a higher risk of fraud, waste, abuse, and mismanagement—asset management, contract management, conservatorship operations, and personnel.

Audits and investigations undertaken so far include both Office of Inspector General initiated efforts as well as efforts in response to requests from RTC management, the RTC Chairman, the RTC Oversight Board, and Congressional committees. In addition, operation of our toll-free Fraud Hotline has resulted in RTC employees, contractor personnel, and others reporting suspected fraudulent and wasteful practices.

I want to discuss some of the vulnerable areas so that the Subcommittee will know the risks facing RTC management and, ultimately, the taxpayer. The first area is asset management. As I already mentioned, RTC controls about $144 billion in assets across the country. RTC's primary objective is to devise methods to efficiently dispose of assets at the highest price possible without causing a negative impact on local real estate and financial markets. As evidenced by prior scandals at the Department of Housing and Urban Development and other federal agencies, the area of asset management and disposition is particularly vulnerable to fraud, waste, abuse, and mismanagement. We plan to devote substantial resources to this area.

Another highly vulnerable area is contract management. FIRREA gives RTC the authority to use the services of the private sector to carry out its asset management and disposition function as well as for its other necessary services. RTC estimates that it will contract 80 percent of its asset management functions to the private sector. From its inception in August 1989 to the end of January 1991, the RTC awarded 75 asset management contracts for assets with an estimated book value of nearly $11 billion. During this same time period, RTC awarded a total of nearly 5,500 service contracts with estimated fees of over $300 million. RTC's use of the private sector, though necessary, provides substantial opportunities for fraud, waste, and abuse to occur. Our audit and investigative efforts related to RTC's contracting activities must also be extensive.

A third vulnerable area is conservatorship operations. As already noted, RTC holds in conservatorship 179 thrifts with gross assets of $86 billion. RTC appoints a managing agent and one or more credit specialists to oversee each conservatorship and prepare it for resolution. Conservatorships are expected to rely on proceeds from asset sales and sources other than RTC to fund their operations and meet their liquidity needs. When an institution is placed into conservatorship, RTC also initiates an investigation to determine whether negligence or abuse by the institution's management contributed to the failure of the institution. These three components of conservatorship operations—the actions of managing agents, funding, and RTC investigative efforts—warrant and will receive audit and investigation attention.

A fourth highly vulnerable area is hiring and personnel practices. RTC has had to hire thousands of employees in a short period of time to carry out its monumental mission. RTC's employment efforts are especially critical in view of the need to rapidly acquire staff nationwide in the specialized areas of RTC's operations and in accordance with RTC's ethical and conduct requirements. We want to be sure these employees do not have a conflict of interest or other problems. Reviews will be made to ensure that adequate policies and procedures are being followed in RTC's hiring.

In addition to these four highly vulnerable areas, we are planning to look into other areas of RTC's operations that are also vulnerable. These other areas include: information management systems, resolutions, receivership operations, and funding and finance which takes into account the $6.6 billion in junk bonds held by RTC. My office will also be reviewing the recent asset sales strategies RTC has adopted, such as the $7 billion Seller Financing Program. My office also has responsibility to review the $22 billion program for restructuring the 1988 Federal Savings and Loan Insurance Corporation (FSLIC) assisted transactions—the so called "'88 Deals."

NEED FOR ADDITIONAL OFFICE OF INSPECTOR GENERAL RESOURCES

The original budget estimate of 150 staff and the resultant appropriation may have been reasonable to start an inspector general operation at RTC. However, I have stated on several occasions, including testimony last Spring before this subcommittee, that we could not know what was truly needed until we had the opportunity to assess the magnitude of RTC's operations and the associated risks. Based on the surveys we have conducted of RTC activities to identify vulnerabilities to fraud, waste, abuse and mismanagement, I have concluded that more Office of Inspector General staff and field offices are needed than originally contemplated.

Factors leading to this conclusion include the larger than anticipated thrift crisis, requiring the resolution of more thrifts and the management and disposition of more assets; the delegation of significant RTC responsibilities to regional and consolidated office staff; the extensive use of contractor personnel to carry out much of RTC's work; and RTC's authority over the restructuring of the FSLIC assisted transactions.

I believe that my office will need to have about 350 people by the end of fiscal year 1992 to fully and vigorously fulfill our audit, investigation, and oversight responsibilities. This will enable us to put appropriate resources not only in the regional offices, but in the consolidated offices as well.

Our budget request for fiscal year 1992 totals $30.3 million and 281 full-time equivalents (FTEs) which is a net increase of $19.5 million and 131 FTEs over our funded level for fiscal year 1991. We would require an estimated increase of $6 million to fund our operations in fiscal year 1992 at the 150 staff level. However, as I have already stated, it is clear that 150 people are not sufficient to provide the review and oversight capabilities that are crucial to the successful operation of an entity as diversified as RTC.

Thus, our fiscal year 1992 budget request also includes increases of: $7.9 million and 76 FTEs for additional auditors most of whom will be located in RTC's 10 consolidated offices in the cities not colocated with RTC regional offices; $4.4 million and 43 FTEs for additional investigators most of whom will be located in consolidated offices with the auditors; and $1.2 million and 12 FTEs for managing our office, overseeing the quality of audits performed by public accountants under contract to RTC, and providing appropriate legal counsel support for our staff.

Additional details supporting our budget request are in documents that we have provided to your staff for inclusion in the hearing record.

CONCLUSION

Madam Chair, most Americans are now acutely aware of the extent, and personal cost to them, of the crisis in the thrift industry. While nothing can be done to erase the losses already incurred, or the fraud, abuse, and mismanagement that accompanied the downfall of many of the failed thrifts, we can at least ensure that the American taxpayer is not pillaged a second time during the cleanup of the thrift debacle. That is the primary mission of my office, and the reason we are seeking this increase in our appropriation for fiscal year 1992.

This concludes my testimony. I want to thank the Subcommittee for inviting me to present our fiscal year 1992 budget request. I will be happy to answer any questions you may have at this time.

Senator **MIKULSKI**. Thank you, Mr. Adair, for your very comprehensive testimony in outlining the four areas of vulnerability.

First of all, as you know, this subcommittee is a strong supporter of inspectors general generally and feel that they fulfill a very important purpose not only in terms of waste, fraud, and conflict of interest, but also offer often great insights into management practices. And we, therefore, support the areas that you have outlined for your endeavor. And I am pleased to hear that Mr. Seidman wants to have you in the field, right at, we will call it, the bunker or foxhole level.

One of our concerns is that there seems to be just no end to either the staff he needs and now the staff you need to watch the staff that they need to do the deals we told them to do, and so on. And to the taxpayer, it is just like a never-ending saga.

He talked about having 1,000 work for him. And one of our questions, of course, would be what incentive is there ever to end it because if I were getting paid—I think if anybody gets paid $500 an hour, $600 million in legal fees, the question becomes what are the incentives to come to closure. Do you have any thoughts on that? In other words, the very people profiting off of handling the transactions would have an investment in prolonging or extending the transactions because they profit.

Mr. ADAIR. We saw the same figures that were mentioned in your discussion with Chairman Seidman about the $600 million in legal fees. We had planned in the near future to look at the legal fees situation. But based on the enormity of the amounts involved, we accelerated our plans, and we are now involved in looking at the legal fees to make sure that they are appropriate and, if they are not appropriate, to see if they can be reduced. So, that is going to be one of our major issues to review this year.

Senator MIKULSKI. How many audits have you had a chance to do, that you actually have up and running?

Mr. ADAIR. We have about 36 audits underway right now, and about six reports have been issued. The early reports were more in the nature of reacting to problems and issues as they arose.

But we did a systematic review of RTC to see what the vulnerable areas were. We identified eight areas of vulnerability, and I have tried to outline them in my testimony. We prepared a plan that will address each of those areas. One area we reviewed is the resolution process; that is, the sale of the failed thrifts to banks and other institutions. One objective of our review was to determine whether the sales were fair, open, and competitive. We have basically found that these sales are much different than the '88 Deals you were just discussing a few moments ago indicating that the '88 Deals were negotiated and, as the lawyers have reported, perhaps not handled in the best fashion. That is not happening at the RTC based on our review of the resolution process. RTC's sales of thrifts are open, competitive, and being handled, as far as we can determine, with the best interest of the taxpayer in mind.

In addition to resolutions, we are looking at the conservatorship operations and the receiverships, being particularly concerned about the asset management and disposition because RTC will be in possession of as much as 200 billion dollars' worth of assets throughout the country. And in order to sell those assets, RTC is putting them in the hands of the private sector in what they call SAMDA contracts, asset management and disposition contracts. And there is a fee paid to each contractor to manage the property and to sell it.

Senator MIKULSKI. Could you give us the initials for the acronym again?

Mr. ADAIR. It is standard asset management and disposition agreement.

Senator MIKULSKI. SAM?

Mr. ADAIR. S-A-M-D-A contracts. Sorry about that. I shouldn't throw out the acronyms. I will try not to do that again.

But 75 of those contracts have been awarded so far, and they involve fees in the hundreds of millions of dollars. There will be many more contracts and subcontracts awarded. These are contractors who are collecting revenues from apartments and even golf courses that are owned by RTC. They are collecting revenues from the sale of assets. They are charging the RTC for many, many different types of expenses. And the opportunity for fraud in that area is very serious and one that needs to be overseen very closely or we are going to spend far more money on fraud and abuse than we will for the operations of an Inspector General Office. I think it is a wise investment to have Office of Inspector General staff in the consolidated and regional offices overseeing what is happening in the disposition of these assets.

Senator MIKULSKI. Are the issues that you outlined the major problems that you are finding, or are there other major or recurring problems?

Mr. ADAIR. The issues outlined in my statement appear to be the areas of highest vulnerability and risk and the ones that we would focus on initially. Our schedule gives us the flexibility to review other areas as they surface. For example, RTC's legal fees came up as an issue that needed to be reviewed quickly. And, of course, the '88 Deals were not included in our original plan, but added when the responsibility shifted from the FDIC to RTC. So, we have been flexible. Anytime something comes to our attention that looks like it is in need of immediate review, we will adjust our plans accordingly.

Senator MIKULSKI. Well, we know that you have been given additional responsibility for the FSLIC resolution fund which is our watch here. Would it be a reasonable request, given time and staffing, for you to give us an assessment of the FSLIC resolution fund by early this summer when we mark up the appropriation bill; for example, the adequacy of support for budget. Are the cost savings real?

Mr. ADAIR. The last part of your question is very significant because the FSLIC resolution fund itself remains with the FDIC, and, therefore, would be under the FDIC inspector general. I think Chairman Seidman alluded to this in his testimony. He said he would like to have that fund transferred to RTC along with the responsibility for renegotiating the 1988 deals. Now, that part, the renegotiation, is what our people are tasked with reviewing.

Senator MIKULSKI. See, that is what they are telling us is the big money saver.

Mr. ADAIR. Yes.

Senator MIKULSKI. And we need to know because we gave that additional $18 billion, and you heard in our testimony what $18 billion would buy in services to veterans or scientific research or space or housing. So, we need to know whether that is an accurate assessment. And one of our problems with this has been not getting a calibrated assessment—we understand that there are unanticipated events outside of anyone's estimates—but at least estimates and also what we need to appropriate.

Mr. ADAIR. Well, I will promise you that we are looking at that. We will continue to review it as the 1988 deals are restructured, renegotiated, and so forth. We have been asked to do that by the Oversight Board and probably would have done it anyway. But, as you have requested, we will make sure that we give you our objective views of how the money was spent and how the deals were restructured. We will be reporting on that, and we will make sure that that information is made known to you and to your committee.

Senator MIKULSKI. We will need the data, of course, before we mark up. We would anticipate that our markup would occur probably after the Fourth of July recess. If we could shoot for that as a date, it would be helpful.

Mr. ADAIR. We will keep your staff informed on the progress of our review and provide information on any specific questions they might have.

Senator MIKULSKI. Well, Mr. Adair, what we are looking for is to be sure that we are exercising our responsibility where we are frugal and yet, at the same time, that our frugality is not foolish, that by saving a penny here, we lose a dollar there. And that is why we really need kind of a second opinion, if you will, on this because whatever we do, we want to do it right so that we maximize the savings to the taxpayer and not under some false illusion of savings, we cost the taxpayer and our Federal Government ultimately more. So, that is what we are searching for.

Now, we know that you now are operating at 150-some staff level and see a need to double that. Is this request a reasonable one of you? Is this what you would be doing anyway? We would want to be very careful we do not divert you from other tasks, particularly where there might be high risk or particular vulnerabilities that need to be investigated.

Mr. ADAIR. We are looking at the '88 Deals because of the enormous amounts of money involved and the potential for saving money. We are following the operations of the RTC on this matter.

Senator MIKULSKI. Well, we want to be very careful when we request a report from you that it is reasonable and would not want to in any way detour or derail you from these four areas of risk and vulnerability that you have outlined.

Mr. ADAIR. Yes.

Senator MIKULSKI. We want you to pursue those with the vigor that is characteristic of the inspector general system.

Mr. ADAIR. All right. We will do that.

Senator MIKULSKI. Well, I think we have gotten a pretty good picture of where you want to go. We look forward to working with you. And we hope that you will get a clear idea of what the estimates are.

Mr. ADAIR. Thank you, Madam Chair.

Senator MIKULSKI. Thank you, Mr. Adair. You have gotten off to a very good start.

ADDITIONAL COMMITTEE QUESTIONS

We will submit the balance of the questions for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Corporation for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

Question 1: Of those failed S&Ls within the purview of the FSLIC Resolution Fund, what is the total past and future estimated cost of their final resolution?

Answer 1: Financial Institution Reform, Recovery and Enforcement Act of 1989 (FIRREA) created the Resolution Trust Corporation (RTC) to resolve thrifts declared insolvent after December 31, 1988 and transferred the remaining assets and liabilities of the former Federal Savings and Loan Insurance Corporation (FSLIC) to the newly created FSLIC Resolution Fund (FRF) under the management of the Federal Deposit Insurance Corporation (FDIC). The assets of the FRF are comprised primarily of the assets of 98 former FSLIC liquidating receiverships and a portfolio of assets which the FSLIC held in its corporate capacity, including a portfolio of capital instruments.

The liabilities of the FRF are comprised primarily of the obligations arising under the assistance agreements with acquirers of failed thrifts (including five operating thrift institutions still requiring permanent resolution). The assistance agreements are, by far, the largest obligations of the FRF. The obligations arising under these agreements are quantified in Attachment A, entitled "Report of Assistance Transactions" for the quarter ending December 31, 1990. The aggregate amount of assistance paid through December 31, 1990 was $19.8 billion and the projected future costs are estimated to be $52.0 billion.

Question 2: What was the total insured deposits of these S&Ls at the time they were taken over by FSLIC or the FSLIC Resolution Fund?

Answer 2: During the calendar years 1987, 1988, and 1989, 212 thrifts were acquired with assistance. Their deposits, at the time of acquisition amounted to approximately $121.8 billion. Of the 98 that were liquidated, approximately $17.8 billion was paid to insured depositors.

Question 3: The news media recently reported that the FDIC and RTC are incurring over $700 million a year in legal fees.

Question 3-1: How much of this is paid by the taxpayer?

Answer 3-1: Approximately one-third of this amount ($204.2 million) represents legal expenses paid from the FSLIC Resolution Fund (FRF) and the RTC Fund, which receives funds directly from the U.S. Treasury. Sixteen percent ($102.5 million) of the outside legal expenses were paid from the Bank Insurance Fund (BIF), which is non-appropriated. The remaining expenses (51%, $308.4 million) were paid directly from the assets of the various financial institutions under conservatorship or receivership arrangements.

Question 3-2: How much of this pertains to the FSLIC Resolution Fund?

Answer 3-2: Approximately $152.1 million in outside legal fees and expenses were paid from FRF conservatorships, receiverships, or directly since 1989.

Question 3-3: How are outside legal firms selected and their fees established?

Answer 3-3: The hiring of outside counsel is not handled under the "normal" competitive contracting process as covered under the

Federal Acquisition Regulations (FAR) administered by the General Services Administration for the executive branch of government. The FDIC is not covered by the FAR, however, there is a qualitative review and registration process for the selection of law firms for this program, as described below:

> At the outset, prospective outside counsel who inquire about working for the FDIC or the RTC are requested to complete a registration form and provide a variety of information about their firm. The information includes a profile of the firm's expertise and experience as well as data on the individuals who propose to do our work. The information also includes, among other things, data on billable rates and discounts that will be offered to the RTC and FDIC, ability to comply with our special requirements (for example, our billing requirements), and information on malpractice insurance. One of the most important items that must be furnished is information as to possible conflicts of interest.
>
> After completion by the firm of the necessary paperwork, and after a determination by the Outside Counsel Conflicts Committee that conflicts of interest do not preclude the firm from working for us, the FDIC and RTC Regional Offices in the firm's geographic area are notified of the firm's availability and given copies of the firm's information materials. If the firm's expertise is in an area that is handled out of Washington (e.g., Professional Liability), the firm's information materials are also given to Washington personnel.
>
> At this point, it is up to each Regional Office (or, where appropriate, the Washington Office) to determine whether it needs new or additional counsel with the expertise offered by the particular firm. If so, the when a firm has been interviewed, a fee schedule has been negotiated, and a Legal Services Agreement has been completed by the Office (and approved by Washington), is a firm placed upon the national "List of Counsel Utilized." When a firm has been placed upon that List, it may be retained by the FDIC and RTC staff attorneys.
>
> Our program also requires that we make special efforts to retain women and minority owned firms and we have dedicated staff to perform that function.

Question 4: The September 1990 report on cost reduction options generally tied potential savings to taking the action in 1991. With the year nearly half over, how much of the potential $2 billion in savings has been lost?

Answer 4: The September 1990 report estimated potential savings from three principal actions. They are:

1. The prepayment of approximately $11.3 billion in FSLIC notes in 1991 and at the earliest opportunity thereafter. Savings were estimated to exceed $1 billion present value including the elimination of future tax benefits.

2. The prepayment of the American Savings Bank/New West FS&LA intercompany note at the earliest opportunity. Savings were estimated to exceed $500 million present value if the maximum prepayments are made quarterly through 1995 compared to paying the note in full at the end of 1998.

3. The write-down of $3.8 billion in covered assets for fair market value in 1991. Savings were estimated to exceed $500 million present value including the elimination of future tax benefits.

The RTC's September 1990 report assumed that savings opportunities from actions that could be taken January 1, 1991 would be taken on that date. However, since savings should be generated over the remaining life of the agreements (usually 8 years). The short delay to date in implementing some of the savings opportunities has not resulted in material missed savings opportunities. In fact, RTC believes that the $2 billion in cost savings estimates are still a realistic target.

The following is a brief report on each of the three principal cost savings opportunities.

FSLIC Notes.

By the end of the fiscal year RTC expects to prepay or renegotiate all but $200 million of the $11.3 billion in notes that could have been prepaid, but not entirely in fiscal year 1991. Such prepayment would result in savings. Of the $11.3 billion mentioned in the September 1990 report approximately $3.1 billion can not be prepaid until fiscal year 1992 or beyond. See Attachment B for summary of the $11.3 billion identified in the September 1990 report.

New West FS&LA/American Savings Bank Intercompany Note.

To date this note has been prepaid at the earliest opportunity. RTC plans to continue to direct the maximum repayment each quarter until this note is paid in full.

Write-Down of $3.8 billion Covered Assets

To date RTC has written down approximately $1.3 billion in covered assets. Additional write-downs will be implemented if no better cost savings opportunities arise through renegotiations. However, we believe better savings opportunities will arise through negotiations.

Question 5: The September 1990 report also identified $540 million achievable in savings from prepayment of $11.3 billion in notes in 1991. Your prepared statement says prepayment of $5.2 billion in notes will save $550 million.

Which statement is correct?

Why are the other $6.1 billion in notes not being prepaid?

Both cost savings estimates were reasonable at the time they were made. The principal reason they are different is the first estimate is in present value terms based on assumed prepayments of $11.3 billion in 1991 and at the earliest opportunities thereafter. The second estimate is not in present value terms but is an estimate of cash savings during the eight year period from 1991 through 1998. The prepayments planned in fiscal year 1991 represent the highest savings available per dollar of prepayment compared to the $2.8 billion that could be prepaid in the current fiscal year but have not been scheduled for prepayment to date We are sorry for the confusion we have caused by not keeping our estimates consistent. In the future all cost savings will be in present value terms on a before and after maximum tax benefits basis.

As Attachment B to question 4 indicates RTC is considering the prepayment of the full $11.3 billion remaining that was mentioned in the September 1990 report. If the notes that can be prepaid are not renegotiated it is likely they will be prepaid in FY 91, FY 92 and thereafter as long as there are cost savings to the American taxpayer.

Question 6: Last year, this Subcommittee was told that a fixed appropriation would not be a major problem. If that is no longer the case, what has happened in the interim to change things?

Answer 6: We continue to face a number of material uncertainties such as; (1) fluctuations in interest rates and real estate markets; (2) the insolvency of assisted institutions; (3) losses attributable to environmental concerns; and (4) the potential disallowance of tax benefits to acquirers. In view of these uncertainties, we are again requesting a current indefinite appropriation. If a fixed appropriation is provided, the factors outlined above could necessitate a request for supplemental funding.

Question 7: Last year, you advised us that the FDIC IG had completed audits of 15 financial assistance agreements. Could you provide the Subcommittee with a list of the IG's reports on FRF activities, and a representative sample of these reports?

Answer 7: Attached for your review are the requested documents. The attachments include a listing of 44 audit reports on FRF activities and four representative reports for the listing.

Question 8: Last year, you advised this Subcommittee that OTS had categorized the nonconservatorship segment of the S&L industry into the following four groups:

299 expected to go to the RTC	(Group IV)
315 in weak condition	(Group III)
621 apparently getting by	(Group II)
1,267 Well capitalized and profitable	(Group I)

How do those numbers look today, and what are the causes or implications of the changes?

Answer 8: We believe that this question should be addressed by the Office of Thrift Supervision, as primary regulator for savings and loan institutions.

Question 9: If one of your acquirers should "go under," how does the FRF and the RTC share the cost of the resolution?

Answer 9: Allocations of costs between the FRF and the RTC are being developed.

Question 10: Since last May, you have reduced your FY 1991 revenue estimate by over $700 million. What caused this?

Answer 10: Lower FRF revenue estimates for FY 1991 are primarily the result of two factors: (1) reduced estimates for both proceeds from FRF receiverships, and (2) SAIF insurance premium income.

(1) Reduced projections for receivership proceeds are, in part, the result of proceeds initially anticipated in FY 1991 actually being received in FY 1990.

(2) Section 215(b)(4) of FIRREA provides that, through December 31, 1991, amounts assessed against Savings Association Insurance Fund (SAIF) members by the FDIC which are not required by either the Financing

> Corporation (FICO) or the Resolution Funding Corporation (REFCORP) shall be transferred to the FSLIC Resolution Fund (FRF). During FY 1991, approximately $950 million in SAIF assessments will be transferred to FRF. After September 30, 1991, however, all net SAIF insurance assessment proceeds not required to pay interest on FICO or REFCORP bonds go to SAIF and are not available to FRF. Thus, the provisions of FIRREA account for the zeroing out of this particular source of FRF funds.

Question 11: Since last May, you've also reduced your FY 1991 estimate of interest on notes payable by $400 million. Is this due to anticipated pre-payment of notes?

Answer 11: Yes, the reduced FY 1991 estimate for interest on Promissory Notes is a direct result of cost savings from prepayment of a large portion of these Notes.

Question 12: Tab 4 of your budget justification indicates 46 assistance agreements were terminated in FY 1990. In general terms, how were they terminated; e.g., were they short term agreements that have run their course, were they "bought out," were they shut down and depositors paid off, etc.?

Answer 12: Twenty-seven of these agreements terminated under their terms. One agreement terminated due to a merger of two acquiring institutions. Another was administratively combined, for reporting purposes, with another agreement with the same acquirer. In 17 other agreements, the assisted institutions were placed into RTC Receivership.

Question 13: Your prepared statement pointed out the merits of having final resolution of all S&Ls merged under one organization; i.e., RTC. What are the pros and cons of having the resolution of S&Ls organizationally separate from their regulation and monitoring?

Answer 13: FIRREA established the separation of regulation and supervision of the savings and loan industry from the resolution of future thrift failures when it abolished the former Federal Home Loan Bank Board and established the Office of Thrift Supervision (OTS) and the Resolution Trust Corporation (RTC). OTS is the primary regulator of thrifts and the RTC is charged with the responsibility of resolving failed thrifts.

We see the following as the merits of having the resolution of all S&Ls, including the former FSLIC assisted institutions, merged under the RTC:

(1) the RTC has responsibility for resolving all future S&L failures, including the failure of FRF assisted institutions which may become insolvent, under the stricter regulatory guidelines and capital requirements mandated by FIRREA,

(2) the RTC is authorized to renegotiate the 1988 FSLIC assistance agreements for the purpose of obtaining any cost savings which may be realized,

(3) transfer of the administrative responsibility for these same agreements provides the RTC with the operational oversight of current and future costs associated with these agreements,

(4) both the RTC and the FSLIC Resolution Fund are appropriated funds and transfer of the administration of the largest liability of the FRF should streamline the appropriation process.

Question 14: What are the various cost implications of prepaying, or buying out, an agreement versus renegotiating it?

Answer 14: The various cost implications of buying out versus renegotiating an agreement are tied to the risks covered by the assistance agreement as they to relate the acquirer and the government. For instance, where the potential of material changes in the cost of the agreement is low it is likely the RTC can buyout the agreement and both parties will benefit. However, if the potential for material changes in the cost of the agreement is high the acquirer will resist a buyout and renegotiation is about the only possibility for cost savings.

Agreements with low potential for material changes in cost include:

o agreements with no or small amounts of covered assets,

o agreements with little remaining exposure under indemnity agreements, and

o agreements where cost is relatively fixed such as FSLIC notes.

Agreements with high potential for material changes in cost include:

o agreements with large amounts of covered assets, and

o agreements with material claims or exposure covered under indemnity agreements.

In those agreements where the cost is relatively certain it is likely that RTC can buyout its remaining exposure. In most cases the thrift will be able to reinvest the cash from the buyout to earn risk adjusted returns greater than the government's cost to borrow. In such instances it is possible for the government to buyout the agreement at a discount over its current cost estimates and for the thrift to earn more from investing the cash than it would have if the agreement ran to its termination date. In such instances the buyout would be mutually beneficial.

In those agreements where the cost is not relatively certain buyouts will not be possible or would be prohibitively expensive. For instance, small changes in real estate values could bankrupt a thrift if a significant portion of its balance sheet are covered assets and the agreement was bought out at today's estimate of losses on covered assets. Therefore, because the risk is so high the acquirers will accept no price to buyout an agreement unless it is tied to a worst case scenario. Even if the RTC was prepared to buyout covered asset protection assuming worst case collection scenarios, it is unlikely that an acquirer would receive regulatory approval to speculate in non performing assets, which is what would happen in such a buyout.

Question 15: With respect to S&Ls, how do the role and responsibilities of OTS and FDIC's Division of Supervision differ? Will there be any changes in the latter as a result of transferring the FRF to RTC?

Answer 15: The OTS is the primary federal supervisor of insured S&Ls and the FDIC is the back-up supervisor. This means in practical terms that the FDIC may examine any insured savings association any may recommend to the Director of OTS that he take specific enforcement action to remedy an unsafe condition or unsafe and unsound practices. If the Director of the OTS fails to take the recommended action or to provide an acceptable plan for addressing the FDIC's concerns within 60 days, the FDIC may take appropriate enforcement action on its own.

Following the enactment of FIRREA, the FDIC undertook an examination of every insured savings and loan association to assess firsthand their condition. That initial round of examinations has been completed and the FDIC now confines its examination activity to the more seriously troubled and large institutions that present the most risk to the insurance fund. The FDIC regional offices work cooperatively with the OTS regional offices to fashion an appropriate supervisory response on a case-by-case basis, to the conditions found in savings associations. The transfer of the FRF to the RTC will have no effect on the back-up role and supervisory practice of the FDIC. No distinction is made, in terms of examinations and exam frequency, between those receiving assistance from FRF and the preponderance of savings associations that receive no assistance.

Question 16: What forbearance are still in place? What risks are seen in either keeping them in place or retracting them, and what are your plans in this regard?

Answer 16: We believe this question should be addressed by the Office of Thrift Supervision, as primary regulator for savings and loan institutions.

Question 17: Without Treasury borrowing or some other external source of funds, when will the Bank Insurance Fund likely run out of money?

Answer 17: Earlier this year the FDIC completed a review of likely bank failures for calendar years 1991 and 1992.* The review covered just those two years because our experience has taught us that projecting banking conditions beyond six or eight quarters involves so much uncertainty as to render the results almost useless. FDIC supervisory staff were instructed to identify banks they believed would have a greater that 50 percent chance of needing FDIC financial assistance during 1991 and 1992 under two different economic scenarios: a baseline case that assumes a moderate recession ending by mid-year 1991; and a pessimistic case that assumes a recession that lasts for more than one year. No attempt was made to project best-case or worst-case scenarios. Our results as of mid-April, 1991, generally follow the path of the baseline projection.

The FDIC's baseline case results in a Bank Insurance Fund (BIF) balance of about $4.1 billion at year-end 1991, and a $3.6 billion balance at year-end 1992. The pessimistic case results in a $0.2 billion fund balance at the end of 1991 and a deficit of $4.6 billion by year-end 1992.

Each scenario requires that the FDIC borrow for working capital purposes during this period, as it has in the past. Least-cost resolution transactions require that the FDIC purchase non-liquid assets, such as real estate, from the failed bank. The portion of the FDIC's initial outlay which is recovered over time through the sale of these assets is referred to as "working capital." We currently have about $70 billion in borrowing authority -- nine times our present net worth. Under the baseline scenario, the FDIC will need no new borrowing authority for 1991 or 1992. Under the pessimistic scenario, however, the FDIC may need substantial new borrowing authority in 1992. This is because as the FDIC's net worth decreases, the debt cap reduces the amount the FDIC is allowed to borrow; if net worth falls too low, borrowings allowed under the debt cap will be insufficient meet capital needs.

These projections assume a BIF balance of $8.4 billion as of year-end 1990. The General Accounting Office (GAO) has recommended that the FDIC make allowances in 1990 for losses in bank failures which are not expected to occur, if at all, until 1992. This would result in a year-end 1990 BIF balance of about $4 billion. As a result, the FDIC may be forced to borrow for liquidity purposes, or require additional borrowing authority, earlier than had been expected.

The insurance losses in failed banks in 1991 will be paid for out of the current BIF fund, with borrowings being used to fund the purchase of assets from the failed banks at their estimated true economic value. To the extent that working capital is needed and borrowed in anticipation of losses, it will be repaid from increases in dedicated insurance premiums. Should the FDIC become insolvent, as it would in 1992 under our pessimistic scenario, or if the fund balance becomes insufficient to support necessary borrowings, a sound long-term plan to recapitalize the BIF would be required.

For details on FDIC projections of the condition of the BIF, please refer to Testimony of L. William Seidman on the "The Condition of the Bank Insurance Fund and Recapitalization" before the Committee on Banking, Finance, and Urban Affairs, United States House of Representatives, Thursday, April 11, 1991 (Attachment D).

Question 18: How confident are you that the banking industry will be able to repay any Treasury borrowing?

Answer 18: The Administration in conjunction with the FDIC has developed a plan to ensure the continued adequacy of the Bank Insurance Fund (BIF) to protect depositors against possible losses stemming from bank failures. We are confident that the banks will meet the cost of the plan through payment of dedicated insurance premiums. Taxpayer money is not required.

As stated above in response to question 17, we believe the FDIC will need no new borrowing authority in 1991 and 1992 under the baseline scenario. To the extent that working capital is needed and borrowed in anticipation of losses during this period, it will be repaid from dedicated increases in premiums. In the longer term, provisions in the Treasury's recapitalization plan would enable the FDIC to borrow from the Federal Reserve or other sources and increase the amount of dedicated insurance premiums in order to repay the borrowing over time as the economy recovers.

The Treasury's long-term plan is a contingency plan. It is based on a total of $70 billion in standby borrowing authority. Of this, $45 billion would be for working capital to purchase nonliquid assets from failed banks. The remaining $25 billion would be to absorb insurance losses, and would be repaid by the banking industry through dedicated insurance premiums. The plan has merit in that it provides adequate resources to deal with the most pessimistic outlook for the fund. As well, the plan does not impose needless burdens, as money will not be borrowed unless needed. Finally, the plan establishes criteria for premium increases which do not endanger the long-run viability of the banking industry.

Some observers have expressed concern that the FDIC's proposed 3.5 basis point increase of the insurance assessment to finance borrowings will be substantially detrimental to the banking industry. While it certainly will not be beneficial, it can be borne by the industry without undue damage. The FDIC staff estimated that increasing the assessment rate from 19.5 cents to 23 cents for the second half of 1991 would have a minimal impact on industry capital levels. The tangible equity capitalization of BIF members as of September 30, 1990 was approximately $224.3 billion. An assessment rate increase of 3.5 basis points, effective with the second-half 1991 semiannual assessment, would raise 1991 industry assessments by an estimated $435 million during 1991, or less .2 percent of third-quarter 1990 industry capital. On an annualized basis, the additional assessments ($870 million) amount to about .39 percent of third-quarter industry capital.

Insurance assessment are a tax deductible operating expense for banks. Assuming an average tax rate of 34 percent, the after-tax cost of the assessment increase would be $574 million per year. In addition, it is reasonable to expect that some portion of the assessment increase will be passed along to bank customers in the form of higher borrowing rates, increased service fees, and lower deposit rates. However, the FDIC staff has assumed, for the purpose of this analysis, that banks will bear the full after-tax cost of the assessment.

During 1992, the assessment increase is projected to raise the number of poorly capitalized banks -- those with less than three percent tangible capital--by only six banks with average assets of under $34 million. The number of banks with between three and six percent tangible capital is projected to increase by nine with average assets under $255 million. In sum, while the assessment increase lowers the book capital of most banks, the overall impact is expected to be negligible.

Question 19: Isn't the size of a bank's loss at the time the RTC takes it over a measure of how late the regulatory agencies were in closing it? Do the FDIC or other involved agencies plan any changes to monitor banks more closely or take them over sooner?

Answer 19: Under ideal circumstances, banks would be closed at the point in time when they become insolvent, i.e., when assets are equal in value to, but not less than, the value of total liabilities. In practice, making a determination regarding the point at which a bank becomes insolvent often is difficult -- determining a bank's capital is not an exact science.

While capital serves to protect both individual banks and the deposit insurance system, changes in the level of a bank's capital can occur very abruptly. As a result, a bank's capital level is a lagging indicator of the bank's financial well-being. This fact is evidenced by the experiences in Texas and, more recently, New England. Given the capital ratios prevailing in the banking industry, even the strongest banks can easily have their capital wiped out very rapidly through imprudent lending practices.

The essence of prudent banking is to avoid making bad loans and investments. Adequate supervision can restrain, although not entirely prevent, such decisions. Adequate supervision is built on hands-on efforts by competent, trained examiners. Among the strengthened supervisory measures the FDIC supports are: a policy of conducting on-site examinations of all banks no less than once a year; assignment of permanent resident examiners to all of the larger banks; and a common approach to the evaluation of loan underwriting standards.

The FDIC supports the concepts of early intervention in undercapitalized institutions before they become technically insolvent. It should be clearly understood by bankers that federal deposit insurance is provided in exchange for the maintenance of certain standards of safety and soundness. If such standards are not maintained and are not brought into compliance within a reasonable time, the supervisors should have the right to order corrective actions and eventually, if necessary, to effect a resolution transaction or otherwise take control of the institution.

Dividend payments by banks which do not meet their capital requirements should be largely eliminated, unless under exceptional circumstances with the concurrence of the insurer. It is difficult to argue that a banker who has put insufficient capital into his institution should be allowed to take capital out. Moreover, in the event of failure, dividends are simply a windfall from the insurer to the banks owners. In contrast to some other restrictions which might be placed on a bank's operations, halting dividends would not be expected to have an adverse effect on a bank's franchise value.

Banks which do not meet supervisory capital requirements should be prohibited from paying principal or interest on subordinated debt held by the bank's owners and paying bonuses or excessive compensation to senior management. Supervisory exceptions should be granted only for cause and only then with the with the approval of the FDIC.

Question 20: You recently reported that Maryland, Virginia and Washington, D.C. banks have recently found themselves with an inordinate number of bad real estate loans. Could you elaborate on why this area in particular is being hit unusually hard with this problem, and what the future outlook is?

Answer 20: Commercial banks in the Washington, D.C. area have been plagued by asset quality problems arising from real estate lending activities. At year-end 1990 banks located in the Washington, D.C. Metropolitan Statistical Area (MSA) had 32.3 percent of their assets in real estate loans; the national average is only 21.7 percent. Furthermore, these banks also had a higher concentration of loans in the riskier types of real estate lending; namely construction and development, and non-residential, non-farm, or commercial lending. At year-end 1990 banks in the D.C. (MSA) had 16.8 percent of their assets concentrated in these two types of loans. This number is down slightly from the 1989 peak of 18.3 percent. By comparison, however, the national average for these types of loans was only slightly over 10 percent for both years.

These concentrations in real estate have become particularly damaging to the banks' balance sheets as Washington, D.C. area real estate markets have deteriorated recently. Evidence of this damage is apparent from the dramatic rise in these banks "Other Real Estate Owned" (OREO). This is real estate acquired through foreclosure. At year-end 1989, OREO for banks in the D.C. MSA was only 0.20 percent of assets. This was well below the national average of 0.42 percent. By the end of 1990, however, this figure has risen to 1.25 percent of assets. This represents a dramatic rise of 600 percent in only one year, and is now twice the national average of 0.63 percent. For banks located in D.C. itself the picture is even worse. These banks had OREO of 1.96 percent of assets at year-end 1990.

The metropolitan Washington D.C. area real estate market is plagued by many of the same problems as other metropolitan areas. The principal danger to the banks in the area is the over-supply of commercial office buildings that has become apparent during the last year. Between 1983 and 1990 the supply of office space in the Washington, D.C. area increased by 104 percent while office employment increased by only 42 percent. As a result, the office vacancy rate increased from 8 percent to 17 percent. Sixty percent of the D.C. MSA's office space is located in suburban areas and the vacancy rate for these projects is an even more alarming 21 percent. At the 1991 absorption rate the metropolitan Washington D.C. market will take 3 years to reduce its vacancy rate to it normal structural level of 11 percent.

The Washington, D.C. market is having some trouble attracting new tenants because of its high wages and high housing costs. This problem makes the current over-supply of office space potentially more damaging for the banks financing vacant buildings than it would be for banks in a similarly over-built market with lower wages and housing costs. Such a market would be able to attract new tenants more rapidly.

OFFICE OF THE INSPECTOR GENERAL

1. How much emphasis are you giving to reducing the taxpayers' cost of the S&L crisis, such as cash recoveries, criminal prosecution, speedy resolution, etc.?

The entire focus of the Office of Inspector General is geared to assisting RTC in its mission to manage and resolve failed thrifts and to dispose of residual assets in a manner that maximizes monetary returns and minimizes the amount of any losses. As we discussed in our statement, our audit and investigative resources are targeted primarily to four aspects of RTC's operations that are highly vulnerable to fraud, waste,and mismanagement.

The Office of Inspector General is responsible for investigating alleged criminal or otherwise prohibited or improper activities occuring after the failed thrift is under RTC control. Our Office of Investigations has a mission to conduct and supervise a comprehensive, nationwide program of investigations of alleged criminal or otherwise prohibited or improper activities in RTC's programs and operations. We maintain close working relationships with U.S. attorneys, the FBI, and other law enforcement agencies in investigating and prosecuting fraud and abuse in RTC programs. To date, our investigative emphasis has been in the areas of contracting and personnel practices, including alleged bribery and collusion.

Our Office of Audit is responsible for conducting comprehensive, nationwide audits of RTC's operations and programs. Through our audits, we are helping ensure that RTC economically and efficiently resolves the crisis in the thrift industry. Our audit efforts to date include (1) identifying areas within RTC which are the most susceptible to fraud, waste, abuse, and mismanagement; (2) developing strategies for conducting our audit work in these vulnerable areas; (3) issuing 9 reports on the results of audits completed in the areas of contract management, resolutions, conservatorships, funding and finance, and information management systems; and (4) conducting audits in the other areas of RTC's operations.

Some examples of audits we are currently conducting are:

-- A review of RTC's controls over its entire contracting process, from solicitation through contract oversight. As part of this review, we are auditing specific contracts into which RTC has entered.

-- Seven audits in the highly vulnerable area of asset management. These audits cover topics such as RTC's formulas and procedures for estimating asset values, RTC's asset management contractor oversight program, and asset management and disposition decisions.

-- Three audits in RTC's conservatorship operations, which includes a review of RTC regional and consolidated office controls over conservatorships.

-- A nationwide audit in the personnel area, with emphasis on RTC's regional and field controls over the hiring of managing agents who are responsible for running the operations of thrifts placed into conservatorships.

RTC management also has an investigative role when it resolves a failed thrift. When an institution is placed under RTC's control, RTC initiates an investigation to determine whether negligence or abuse by the institution's officers or directors or professionals contributed to the failure of the institution. Another important function for RTC management is to recover funds through insurance claims and civil proceedings directed against former management and customers who may have defrauded the institution prior to RTC taking control. These investigative efforts are vital to maximize civil and criminal recoveries to RTC and minimize the taxpayers' cost of resolving the thrift crisis. The Office of Inspector General will oversee these investigative efforts to help ensure that they are performed appropriately.

2. Based on your work to date, do you believe the RTC and FSLIC Resolution Fund program people are also giving this adequate emphasis?

RTC was created to deal with one of the most monumental financial tasks ever faced by the federal government, namely to clean up the thrift crisis as effectively and efficiently as possible. RTC faced many obstacles and challenges from its onset, including assimilation of a diversified staff and management responsibility for an enormous quantity and variety of assets. Given the size and complexity of the thrift crisis, RTC has made progress.

In testimony presented before the Senate and House Banking Committees earlier this year, Treasury Secretary Nicholas Brady discussed RTC's progress in resolving 352 failed thrifts; lowering the cost of thrift resolutions by preselling troubled institutions before they are put in conservatorship; reducing RTC-held assets by over $127 billion; and delegating asset management and sales functions to the private sector. Secretary Brady also testified before both Committees that new legislation provided additional powers to RTC, FDIC, the Justice Department, and bank regulators in their fight to combat fraud and recover assets. He reported that, of 566 defendants charged in savings and loan cases from October 1988 through the end of 1990, 403 have been convicted, with prison sentences totalling 768 years, and $231.8 million in restitutions being ordered.

The responsibility for making payments under and overseeing the FSLIC assistance agreements within the FSLIC Resolution Fund (FRF) was administratively transferred to RTC in January of this year. We have just started our audit work in the area of RTC's plan for renegotiating the FSLIC assistance agreements, and have agreed to provide information later to your staff on the progress and results of our work.

3. What cash recoveries or other quantifiable savings can the Office of Inspector General identify with its work thus far?

To date, our completed audits and closed investigations have not produced any cash recoveries or quantifiable monetary savings. Our work, however, has resulted in recommended improvements to RTC's operational activities in the areas of contracting, asset management, resolutions, information management systems, and funding. In addition, our investigations have brought about criminal charges or administrative sanctions for consultant contractor irregularities and employee misconduct and wrongdoing.

We currently have over 30 audits ongoing and several have the potential for recommending corrective actions which could result in substantial savings and other financial benefits. We will keep you and your staff apprised of the results of these audits in the upcoming months.

4. Do you attempt to, or see a need to, examine each failed S&L that RTC takes over, or do you primarily assess RTC's procedures as being applicable to all S&Ls? In either case, how would you describe the backlog, delays, loss of adequate coverage, or other problems, that the additional staffing would preclude?

Through the end of December 1990, RTC has taken over 531 thrifts. Rather than audit each of these, we believe it is a more efficient and cost effective use of our resources to evaluate the overall process for takeovers and resolutions to ensure that the process works properly and minimizes RTC's costs. For example, we have planned audits for fiscal year 1991 to review internal controls used in RTC thrift closings and the adequacy of the bidding and marketing process used for resolving failed thrifts. We will select takeovers and resolutions to review as part of these audits.

In addition, one of our first audit reports concerns our observations made of closing and payout activities at two institutions (Observations on Resolution Trust Corporation Closing Activities; ARM 91-001; February 21, 1991). In each of these institutions, we observed the initial closing, the briefing of RTC and contractor personnel, and the payout of deposit insurance to depositors. We also observed RTC activities involving cash, asset control, and claims. Based on these observations, we made recommendations to RTC management to improve its policies, procedures, and controls.

In another audit, we reviewed four resolution transactions involving failed thrifts, each with liabilities in excess of $500 million, to determine whether RTC adequately marketed the institutions and selected the most cost effective bid. In our audit report, (The Equity and Effectiveness of RTC's Resolution Process; ARM 91-005; March 29, 1991), we reported that RTC consistently and accurately applied its cost test for each resolution. During this audit we became aware of two items which do not affect the integrity of the cost test, but could affect other items. Specifically, we are concerned about (1) the reasonableness of asset valuation estimates that private sector firms were preparing for RTC, and (2) estimates of the assets RTC would have to repurchase under asset put back options provided to acquirers, which RTC uses to determine its funding needs. We intend to conduct further audit work to determine whether our concerns are valid.

We cannot quantify the backlog and delays in our work which could be precluded if we obtain the additional staffing we have requested. However, we know that our current staffing levels are not sufficient for us to completely, substantively, and adequately review the highly vulnerable areas we have identified in RTC.

As of March 31, 1991, we had 33 audits ongoing. In addition, we have a growing investigative caseload. As of March 31, 1991, 64 investigative cases were pending, which includes cases under investigation or completed cases awaiting judicial action or RTC management response.

5. How did you determine the staffing level you are requesting for each field office?

As mentioned in our testimony, the increasing magnitude of RTC operations and the additional workload and responsibilities delegated to RTC's regional and consolidated offices prompted us to request additional resources for our office. RTC has 4 regional offices and 10 consolidated offices which are not co-located with the regions. Our request for additional resources includes funding for audit and investigative staff in the 10 consolidated offices where we currently have only 3 staff assigned.

Chairman Seidman has mentioned the importance of having the presence of the OIG in each of RTC's consolidated offices. We agree that an OIG staff should be located in these offices because the consolidated offices have significant asset management, asset disposition, and contracting responsibilities.

We determined our staffing requirements for the consolidated offices based on judgment and other factors such as quantity and dollar value of assets managed and ultimately sold by each of RTC's consolidated offices. For example, RTC has projected that its consolidated office in Costa Mesa, California will have a considerable amount of assets to manage and ultimately sell. The Costa Mesa office is the only RTC office in California, where major thrift failures have included Lincoln Savings and Loan and Columbia Savings and Loan. Costa Mesa is one of RTC's largest consolidated offices and plans to be staffed with over 400 employees by December 1991. The Office of Inspector General, which currently has no staff assigned to Costa Mesa, would like to hire 22 auditors and investigators to oversee the operations of this office.

6. What are the additional 40 people in Washington, D.C. going to do?

The 40 additional people in our Washington, D.C. office will be distributed as follows:

-- an increase of 16 staff in our Office of Audit and 5 staff in our Office of Investigation to continue our work in the highly vulnerable areas of RTC's operations as well as the additional workload of reviewing the renegotiation of the FSLIC assistance agreements and RTC's management of its legal fees.

-- an increase of 9 staff in our Office of Oversight and Quality Assurance to oversee RTC's nonfederal audit activities. To date, RTC has awarded more than 450 contracts with fees exceeding $100 million to nonfederal auditors for a wide range of accounting, auditing, and other services.

-- an increase of 10 staff to manage our office, provide appropriate legal counsel support for our staff, and work on special projects.

7. Could you provide some additional detail as to what your request for object classification "other services" will entail?

Our fiscal year 1992 request for nearly $4.3 million categorized as "other services" includes $2 million to contract for outside CPA audit services to assist in our audits and $200,000 for one-time design and space buildout costs at 10 consolidated offices. Also included in this category are funds to finance our continuing education and training program which is designed to (1) develop the maximum performance of our employees' audit, investigative, management, and administrative duties, and (2) promulgate adherence to professional standards prescribed for auditors and investigators. Other expenses in this category include items such as fees for accounting services provided by the General Services Administration, purchases of credit reporting services used by investigators in performing credit checks, costs for storage of household goods for employees associated with a permanent change of station, and expenses incurred in obtaining information from confidential sources during authorized investigative activities.

8. Does shifting the FSLIC Resolution Fund from FDIC to RTC have the effect of changing the cost of audit coverage from nonappropriated to appropriated funds? Will you be reimbursed for your audit efforts in the FRF?

Responsibility for making payments under and overseeing the FSLIC assistance agreements was administratively transferred from FDIC to RTC in January of this year. In transferring this responsibility, RTC and FDIC recognized the need for RTC to have both oversight and negotiation authority in its efforts to modify, renegotiate, or restructure the FSLIC assistance agreements. The renegotiation of these agreements is clearly an RTC function and the RTC Office of Inspector General is responsible for reviewing this function. As stated before, we have just started our review of the implementation of RTC's plan for renegotiating the FSLIC assistance agreements.

Payments under the FSLIC assistance agreements are made from the FSLIC Resolution Fund (FRF) which is one of FDIC's funds. As such, oversight of the agreements falls within the scope of FDIC Office of Inspector General responsibilities. In addition, under the Chief Financial Officers Act of 1990, a financial audit of the FRF would be the responsibility of the FDIC Office of Inspector General. However, GAO has elected to conduct the financial audit of the FRF for 1989 and 1990. In the event that the FRF would be shifted from FDIC to RTC, the responsibility for auditing FRF would assumedly be transferred to RTC's Office of Inspector General.

We have not been involved in discussions regarding reimbursements for any future audit efforts on our part in the FRF. However, the Inspector General Act of 1978 as amended does not preclude the OIG from accepting funds to perform audit functions. If we were to perform an audit of FRF without reimbursement, the expenses for the audit would be paid from our appropriated funds.

9. Could you provide the staffing levels for some of the other federal inspector general offices that you consider comparable to yours?

There are no two Offices of Inspector General which are faced with the same mission. Therefore, it is difficult to compare staffing levels of one OIG to another for purposes of determining whether those levels are reasonable. However, one might be inclined to compare RTC to HUD when considering vulnerabilities of programs to fraud, abuse, and mismanagement. Both RTC and HUD are on GAO's list of federal programs deemed to be high risk in vulnerability to fraud, abuse, and mismanagement. The President's Budget for Fiscal Year 1992 provides the HUD Office of Inspector General with 592 FTEs and our office with 295 FTEs.

If the increase in staffing that we have requested for fiscal year 1992 is approved, our office will be in the mid-range in size. We will rank 15th among the 25 IGs appointed by the President under the Inspector General Act of 1978, as amended (see table below). Considering the risks facing the thrift cleanup and the growing size of assets controlled by RTC, which has already been described as the Nation's largest financial institution, we believe the additional staff are needed.

AGENCY	1992 FTEs
DOD	1550
HHS	1538
AGRICULTURE	918
HUD	592
LABOR	541
TRANSPORTATION	488
GSA	435
VA	417
JUSTICE	378
EDUCATION	367
EPA	366
INTERIOR	334
TREASURY	326
ENERGY	315
RTC	295
STATE	265
AID	251
NASA	206
COMMERCE	205
SBA	173
RRB	119
OPM	118
FEMA	70
USIA	51
NRC	37
AVERAGE	414

SOURCE: Budget of the United States Government, Fiscal Year 1992

ATTACHMENT A

28-Feb-91

DIVISION OF FSLIC OPERATIONS
REPORT OF ASSISTANCE TRANSACTIONS
QUARTER ENDING DECEMBER 31, 1990
DOLLARS
(000's OMITTED)

	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID THRU 12-31-90	FUTURE PROJECTED COSTS
PRE-1988 CONVENTIONAL CASES SUBTOTAL:	39,263,040	433,005	4,627,636	5,465,767	4,348,443	1,117,324
1988 CONVENTIONAL CASES SUBTOTAL:	60,272,291	9,366,353	16,155,855	17,337,358	4,120,559	13,216,799
SOUTHWEST CASES(1988) - SUBTOTAL:	44,119,869	19,346,180	47,780,983	48,049,591	10,430,060	37,619,531
ALL 1988 CASES SUBTOTAL:	104,392,160	28,712,533	63,936,838	65,386,949	14,550,619	50,836,330
1989 CONVENTIONAL CASES SUBTOTAL:	83,486	6,028	160,061	92,147	88,803	3,344
GRAND TOTAL:	143,738,686	29,151,566	68,724,535	70,944,863	18,987,865	51,956,998
CLOSED/TRANSFERRED CASES:	13,343,851	0	1,031,040	932,735	870,232	62,503

	# of Disapp. Instit.	# of Assis. Agrmts.
PRE-1988 CONVENTIONAL CASES SUBTOTAL:	88	63
1988 CONVENTIONAL CASES SUBTOTAL:	94	70
SOUTHWEST CASES(1988) - SUBTOTAL:	103	21
ALL 1988 CASES SUBTOTAL:	197	91
1989 CONVENTIONAL CASES SUBTOTAL:	3	2
GRAND TOTAL:	288	156
CLOSED/TRANSFERRED CASES:	50	46

NOTE: It is anticipated that $7.8 billion of promissory notes will be prepaid by March 1991. This prepayment will result in a $4.7 billion reduction to the total current cost estimate.

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID THRU 12-31-90	FUTURE PROJECTED COSTS
1600	NORTHEAST SAVINGS FA	(A)	0	(A)	549	153	396
1602	FARM & HOME SA	(A)	966	(A)	43,600	43,530	70
1608	HOUSEHOLD BANK FSB	60,779	0	20,717	15,957	15,708	249
1609	ANCHOR SB FSB	511,129	0	420,275	145,762	145,514	248
1610	INDEPENDENCE FSB	23,248	0	3,633	2,506	2,496	10
1611	BANK OF BALTIMORE	146,103	0	30,000	25,785	25,785	0
1612	FIRST NATIONWIDE BANK FSB	3,872,474	0	482,963	468,508	458,908	9,600
1616	GLENDALE FSLA	2,643,390	0	16,718	(253)	(253)	0
1619	HOME SAVINGS OF AMERICA FA	933,032	0	2,852	7,800	7,800	0
1620	HOME SAVINGS OF AMERICA FA	960,560	0	110,978	191,752	191,752	0
1628	INVESTORS SAVINGS BANK	110,669	0	14,782	18,861	18,861	0
1630	CITICORP SAVINGS FSLA	2,871,020	8,365	203,929	9,877	8,843	1,034
1633	NORTHEAST SAVINGS FA	980,841	0	82,145	12,815	12,815	0
1644	HOME FSLA OF SIOUX FALLS	109,959	0	8,000	8,663	8,663	0
1648	CROSSLAND SAVINGS FSLA	251,737	0	15,049	29,690	29,560	130
1649	LONG ISLAND SB FSB	2,502,795	0	75,000	63,317	44,940	18,377
1650	ANCHOR SB FSB	2,017,750	0	37,067	56,426	56,426	0
1651	ENSIGN BANK FSB	762,755	565	12,785	13,048	13,048	0
1652	CITICORP SAVINGS OF ILLINOIS	3,957,623	154,694	855,474	694,513	394,997	299,516
1659	HOUSEHOLD BANK FSB	399,856	0	58,400	67,194	66,019	1,175
1660	UNION FSB	322,319	0	19,611	26,687	26,687	0
1661	DOLLAR BANK FSB	1,054,337	0	87,500	80,848	80,848	0
1665	HOUSEHOLD BANK FSB	95,020	0	22,000	22,257	22,255	2
1666	MERITOR SAVINGS BANK	802,688	0	97,873	54,154	52,808	1,346
1669	HOUSEHOLD BANK FSB	92,911	0	15,500	16,190	16,154	36
1671	COLUMBIA FIRST FSLA	58,336	0	0	959	628	331
1672	SECURITY FSLA OF ALBUQUERQUE	204,834	0	2,860	13,536	13,536	0
1674	SECURITY SLA	28,000	300	6,279	10,325	10,217	108
1676	METROPOLITAN FEDERAL BANK FSB	42,183	0	1,700	3,676	880	2,796
1679	ANCHOR SAVINGS BANK FSB	373,276	0	15,111	12,855	12,397	458
1681	UNITED SAVINGS BANK FSB	603,904	36,692	50,423	45,472	42,910	2,562
1682	THE LONG ISLAND SB FSB	520,291	0	53,096	22,714	22,216	498
1684	GERMANIA BANK FSB	58,934	0	0	1	1	0
1686	CARTERET SB FA	139,227	3,319	0	28,499	24,682	3,817
1687	CITIZENS FEDERAL BANK FSB	739,730	0	40,841	152,545	102,328	50,217
1688	FIRST NATIONWIDE BANK FSB	569,361	0	0	289	69	220
1690	SECURITY PACIFIC SAVINGS BANK	262,404	0	21,377	25,549	25,549	0

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID THRU 12-31-90	FUTURE PROJECTED COSTS
1691	CITICORP SAVINGS OF WASHINGTON	1,116,233	0	51,804	52,889	52,885	4
1693	TRANSOHIO SAVINGS BANK FSB	859,117	0	122,224	115,021	114,812	209
1694	MID-CONTINENT FSLA	22,557	514	8,853	9,598	9,208	390
1695	CHARTER BANK FOR SAVINGS FSB	21,336	461	2,390	3,537	3,101	436
1696	POUGHKEEPSIE SB FSB	217,461	0	0	249	249	0
1697	HERITAGE FSB	361,324	0	12,900	13,228	13,147	81
1698	MONYCOR SAVINGS BANK FSB	160,348	0	12,634	24,854	24,848	6
1702	STANDARD PACIFIC SAVINGS FA	65,729	0	5,000	9,716	6,882	2,834
1703	INTERWEST SAVINGS BANK	150,598	0	22,000	26,408	26,408	0
1704	FIRST FSB OF NEW ORLEANS	26,815	0	10,059	12,560	12,438	122
1880	CROSSLAND SAVINGS FSB	430,753	0	0	0	0	0
1706	COAST SLA	1,696,717	15,490	289,559	346,415	334,055	12,360
1707	SOUTHERN CALIFORNIA SLA FSLA	983,842	0	217,500	224,169	223,115	1,054
1708	ENSIGN BANK FSB	194,336	0	27,216	13,144	13,004	140
1709	WASHINGTON FSLA	582,113	0	69,175	127,544	127,534	10
1710	THE GLOBE SB FSB	54,003	2,490	41,866	62,218	61,343	875
1711	FIRST FSLA	52,920	7,130	22,743	30,919	27,387	3,532
1712	GULF FEDERAL BANK FSB	6,074	0	467	854	854	0
1713	HOME SA OF KANSAS CITY FA	912,906	0	N/A	921,184	921,184	0
1714	SULPHUR SPRINGS L&BA	29,148	3,113	5,809	6,322	5,557	765
1715	UNITED SLA	20,490	0	2,336	2,393	2,393	0
1716	UNION FEDERAL SAVINGS BANK	402,445	0	21,865	21,266	21,087	179
1717	PELICAN HOMESTEAD AND SA	668,289	32,485	479,000	564,605	167,307	397,298
1718	SECOR BANK FSB	817,241	155,381	238,209	403,736	103,640	300,096
1719	CHAMPION FSLA	143,720	3,430	40,581	37,575	37,030	545
1720	COREAST SB FSB	183,050	7,610	38,508	42,437	39,245	3,192
PRE-1988 CONVENTIONAL CASES SUBTOTAL:		39,263,040	433,005	4,627,636	5,465,767	4,348,443	1,117,324

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID THRU 12-31-90	FUTURE PROJECTED COSTS
1721	HOME FSLA OF ROCKFORD	30,410	71	14,712	14,017	13,962	55
1722	ATLANTIC FINANCIAL FEDERAL	722,619	10,128	72,249	216,428	74,940	141,488
1723	GREAT WEST SAVINGS BANK FSB	30,090	0	3,075	6,946	4,138	2,808
1724	STATESMAN BANK FOR SAVINGS FSB	601,690	58,870	167,768	223,550	158,870	64,680
1725	STERLING SAVINGS ASSOCIATION	53,800	869	17,296	14,561	13,246	1,315
1726	LEMONT SA	38,610	0	6,460	6,100	6,100	0
1727	HOME FSLA	88,140	0	7,141	7,204	7,173	31
1728	HANSEN SB SLA	244,780	6,838	71,545	88,528	84,431	4,097
1729	EUREKA FSLA	1,762,490	65,613	269,625	470,997	441,757	29,240
1730	FIRST FSB OF HEMPSTEAD	24,310	2,172	9,880	9,879	8,855	1,024
1731	SECURITY SB FSB	46,420	0	9,560	10,978	10,978	0
1732	AMERIBANK FSB	211,830	0	4,000	3,876	3,876	0
1733	EUREKA FSLA	75,970	14,176	8,082	15,407	11,173	4,234
1734	WORLD SLA FSLA	24,040	0	5,400	9,246	9,173	73
1735	RIVER VALLEY SB FSB	177,190	6,939	34,500	43,523	40,265	3,258
1736	RIVER VALLEY SB	36,540	5,188	17,831	19,897	17,507	2,390
1737	FIRST FSB NORTHWEST	80,270	0	9,445	13,500	12,567	933
1738	UNITED SAVINGS OF AMERICA	36,130	0	2,696	2,765	2,765	0
1739	STANDARD FSLA OF CHICAGO	255,610	6,432	12,711	35,961	21,014	14,947
1740	FIRST FSLA OF LINCOLN-IOWA	48,597	0	12,222	13,890	13,890	0
1741	METROPOLITAN FB OF IOWA	1,154,116	95,184	626,352	643,917	125,862	518,055
1742	WASHINGTON FSLA	26,500	0	2,389	2,459	2,459	0
1743	OLD STONE BANK OF CALIFORNIA	182,240	0	40,100	45,966	45,670	296
1744	SECURITY TRUST FSLA	40,170	2,526	17,232	20,803	19,659	1,144
1745	CITIZENS FSB	59,320	0	0	159	108	51
1746	FEDERAL SB OF ROGERS	122,380	6,693	25,431	26,632	22,470	4,162
1747	UNITED SAVINGS OF AMERICA	40,120	0	3,605	3,722	3,722	0
1748	SECOR BANK FSB	76,560	0	12,950	12,968	12,968	0
1749	WASHINGTON FSLA	306,960	0	60,890	61,168	5,701	55,467
1750	WESTERN FSL	931,910	290,983	695,756	842,172	365,930	476,242
1751	HOME FSLA OF ROCKFORD	41,530	0	4,958	5,030	5,030	0
1752	UNION FSB OF INDIANAPOLIS	161,570	13,177	36,286	38,387	34,143	4,244
1753	UNION FSB OF FRANKTON	30,730	0	*	3,012	3,012	0
1754	BUTTERFIELD SLA FSA	517,150	94,602	386,272	393,559	95,696	297,863
1755	FIRST FEDERAL BANK FSB	60,410	1	9,338	8,629	8,629	0
1756	AMERIANA SB FSB	52,410	1	5,372	5,881	5,881	0
1757	TRACY SLA FA	46,350	0	2,951	3,660	3,534	126

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID THRU 12-31-90	FUTURE PROJECTED COSTS
1758	FIRST FSB OF INDIANA	338,896	0	28,750	29,045	28,976	69
1759	REPUBLIC SB FSB	51,450	0	25,200	25,966	25,966	0
1760	PEOPLES FSB	368,550	0	34,900	34,976	34,976	0
1761	CROSSLAND SAVINGS FSB	61,950	0	11,841	11,290	11,284	6
1762	FIRST NATIONWIDE BANK FSB	1,242,620	55,038	186,599	209,276	99,694	109,582
1763	FLAGSHIP FSB	97,770	955	23,607	7,925	7,608	317
1764	SOUTHSIDE SB FSB	57,310	1,781	10,386	11,103	10,660	443
1765	MIDAMERICA SB FSB	256,470	0	14,000	14,000	14,000	0
1766	FIRST WESTERN FSLA-WENATCHEE	50,160	0	1,970	1,975	1,975	0
1767	PACIFIC FIRST FSB	788,730	119,056	224,614	221,506	64,579	156,927
1768	FIRST FSLA OF LINCOLN	25,450	0	19,525	19,292	19,292	0
1769	WORLD SLA OF OHIO	321,038	0	83,689	84,841	84,588	253
1770	FIRST NATIONWIDE BANK FSB	881,024	0	256,313	249,092	12,699	236,393
1771	CITICORP SAVINGS OF ILLINOIS	69,080	9,733	21,695	17,703	14,539	3,164
1772	NVR SAVINGS BANK FSB	287,140	42,736	77,204	87,578	86,369	1,209
1773	VIRGINIA FSB	685,200	0	13,500	13,500	13,500	0
1774	ROCKY MOUNTAIN FSB	576,243	91,190	211,078	244,477	46,838	197,639
1775	BARNETT FSB	254,590	0	4,880	5,002	5,002	0
1776	NEW WEST FSLA	30,142,050	4,371,300	4,000,000	4,819,301	561,391	4,257,910
1777	CITIZENS FEDERAL BANK FSB	891,820	14,651	203,280	195,946	152,657	43,289
1778	JACKSON COUNTY FSLA	275,470	12,050	77,358	74,987	46,915	28,072
1779	NORTHWEST FSB	202,673	22,081	109,918	115,430	11,243	104,187
1780	FIRST NATIONWIDE BANK FSB	8,174,360	2,810,654	2,802,723	2,626,093	267,648	2,358,445
1781	METROPOLITAN FB OF IOWA	262,350	28,343	124,442	123,304	17,960	105,344
1782	WESTERN FSB OF MONTANA	128,970	3,711	11,520	12,044	10,885	1,159
1783	HOME FSLA	556,792	71,153	356,428	396,472	39,695	356,777
1784	SOUTHEAST BANK FOR SAVINGS	132,843	0	29,000	30,215	29,508	707
1785	NEW METROPOLITAN FSLA	1,156,740	0	1,905,980	1,599,366	189,051	1,410,315
1786	SUPERIOR BANK FSB	1,485,030	407,809	538,141	572,140	157,030	415,110
1788	RIVER VALLEY SB FSB	176,350	0	31,181	30,063	5,784	24,279
1789	CALIFORNIA FB FSB	549,690	117,202	252,435	274,826	47,800	227,026
1790	BEVERLY HILLS FSB	1,190,080	506,447	1,769,618	1,825,230	275,286	1,549,944
1791	HOME FSLA OF SIOUX FALLS	93,440	0	8,000	8,017	8,007	10
1988 CONVENTIONAL CASES SUBTOTAL:		60,272,291	9,366,353	16,155,855	17,337,358	4,120,559	13,216,799

FDIC MISCID ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID THRU 12-31-90	FUTURE PROJECTED COSTS
1792 FIRST COOK BANK FOR SAVINGS FSA	28,486	6,028	147,946	80,044	76,985	3,059
1793 FIRST TROPICAL SB FSB	55,000	0	12,115	12,103	11,818	285
1989 CONVENTIONAL CASES SUBTOTAL:	83,486	6,028	160,061	92,147	88,803	3,344
1794 COASTAL BANC SA	456,270	227,445	237,225	364,091	109,492	254,599
1795 SOUTHWEST SAVINGS ASSOCIATION	4,093,960	2,395,506	3,727,329	4,826,514	1,075,084	3,751,430
1797 AMERICAN FEDERAL BANK FSB	2,168,610	1,360,005	2,399,180	2,856,758	775,097	2,081,661
1798 SUNBELT SAVINGS FSB	4,873,683	3,284,146	11,420,972	10,457,925	2,041,083	8,416,842
1796 MERABANK TEXAS FSB	(Incl. w/1799)					
1799 MERABANK TEXAS FSB	809,140	316,403	1,628,920	1,446,132	224,125	1,222,007
1800 CIMARRON FSLA	844,182	246,487	709,492	292,334	138,687	153,647
1801 RED RIVER FSLA	506,651	223,655	258,875	294,833	91,242	203,591
1802 CHISHOLM FSLA	175,362	53,094	105,215	102,344	30,653	71,691
1803 HEARTLAND FSLA	1,086,904	365,387	503,906	379,303	203,673	175,630
1804 HEIGHTS OF TEXAS FSB	1,304,270	914,857	2,008,049	1,944,902	549,323	1,395,579
1805 FIRST HEIGHTS FSA	(Incl. w/1804)					
1806 GUARANTY FEDERAL SB	3,051,390	1,438,235	3,324,969	3,767,424	755,720	3,011,704
1807 FRANKLIN FEDERAL BANCORP FSB	1,210,830	768,347	1,872,234	1,951,249	391,237	1,560,012
1808 AMWEST SAVINGS ASSOCIATION	3,677,340	1,444,516	2,625,201	2,959,747	701,999	2,257,748
1809 AMERICITY FSB	251,080	237,152	281,653	401,991	89,515	312,476
1810 BLUEBONNET SAVINGS BANK	1,803,800	1,421,568	3,377,666	3,563,192	658,092	2,905,100
1811 FIRST GIBRALTAR BANK FSB	11,404,810	2,650,235	8,890,667	8,464,008	1,496,128	6,967,880
1812 PACIFIC SOUTHWEST SB FSB	832,790	508,879	1,282,350	1,087,449	224,856	862,593
1813 TEXAS TRUST SB FSB	317,990	255,889	657,253	808,997	156,060	652,937
1814 LOCAL AMERICAN BANK OF TULSA	526,350	110,969	126,019	150,942	50,442	100,500
1815 UNITED SA OF TEXAS FSB	4,412,780	1,060,416	2,201,872	1,734,885	616,200	1,118,685
1816 EQUITY BANK FOR SAVINGS	311,677	62,989	141,936	194,571	51,352	143,219
SOUTHWEST CASES - SUBTOTAL:	44,119,869	19,346,180	47,780,983	48,049,591	10,430,060	37,619,531
GRAND TOTAL:	143,738,686	29,151,566	68,724,535	70,944,863	18,987,865	51,956,998

A:Pre 1980 Cases. AED Original Cost data is only available from 1980 forward.

27-Feb-91

DIVISION OF FSLIC OPERATIONS
REPORT OF ASSISTANCE TRANSACTIONS
CLOSED CASES
DOLLARS
(000's OMITTED)

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID	FUTURE PROJECTED COSTS
1601	ASTORIA	(A)	0	(A)	16	16	0
1603	HOME FEDERAL SAVINGS BANK	(A)	0	(A)	39,673	39,673	0
1604	HOUSEHOLD BANK FSB	148,800	0	22,000	14,611	14,611	0
1605	STANDARD FEDERAL BANK	128,774	0	30,096	13,269	13,269	0
1606	AVONDALE FSB	97,045	0	45,000	2,059	2,059	0
1614	UNITED POSTAL SA	414,542	0	80,165	80,790	80,790	0
1617	EMPIRE OF AMERICA FSB	286,316	0	9,943	9,992	9,992	0
1618	CITY SAVINGS BANK FSB	380,825	0	43,735	13,564	13,144	420
1621	CITY SAVINGS BANK FSB	403,465	0	9,610	10,457	9,367	1,090
1622	MUTUAL HOME & SA	23,937	0	7,371	4,275	4,275	0
1623	ILLINOIS SERVICE FSLA	2,812	0	531	292	292	0
1626	EMPIRE OF AMERICA FSB	1,988,882	0	127,588	7,000	7,000	0
1627	SECURITY SB SLA	139,016	0	14,752	3,990	3,990	0
1629	BAYSIDE FSB	147,804	0	8,014	8,798	8,798	0
1631	SUN COUNTRY SB OF NEW MEXICO	34,880	0	1,761	1,353	1,353	0
1634	EMPIRE OF AMERICA FSB	649,027	0	30,921	31,582	31,467	115
1636	GREAT AMERICAN FSLA	138,357	0	9,500	9,827	9,797	30
1638	COMMUNITY FSLA	756,531	0	44,842	53,708	53,508	200
1640	ROOSEVELT BANK FSB	81,767	0	10,684	11,879	11,879	0
1641	HORIZON FINANCIAL FA	182,916	0	11,150	11,325	11,325	0
1643	FIRST JACKSON SB FSB	34,727	0	1,650	0	0	0
1645	TCF BANKING & SAVINGS FA	362,884	0	1,410	2,270	2,270	0
1653	CITICORP SAVINGS OF FLORIDA	1,936,860	0	0	389	389	0
1654	MIDWEST FSB	259,188	0	54,705	40,486	40,484	2
1655	FIRST SLA OF AMERICA	64,124	0	10,740	8,825	8,825	0
1657	GIBRALTER SB FSB	233,382	0	37,500	4,986	4,011	975
1658	HOME SAVINGS OF AMERICA FA	737,461	0	5,040	6,470	6,470	0
1662	CAGUAS FSB OF PUERTO RICO	43,839	0	24,044	1,903	1,703	200
1664	ATLANTIC FINANCIAL SB FSB	112,860	0	2,636	0	0	0
1667	HOME SAVINGS OF AMERICA FA	216,776	0	0	0	0	0
1670	BENJAMIN FRANKLIN FSLA	174,947	0	8,800	8,800	8,800	0
1673	HOMEOWNERS SB FSB	255,626	0	17,500	17,500	17,500	0
1675	STERLING SA	52,500	0	1,750	1,764	1,764	0
1677	REPUBLIC SB FSB	122,437	0	16,269	21,537	21,537	0

27-Feb-91

DIVISION OF FSLIC OPERATIONS
REPORT OF ASSISTANCE TRANSACTIONS
CLOSED CASES
DOLLARS
(000's OMITTED)

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS	ORIGINAL COST ESTIMATE	CURRENT TOTAL COST ESTIMATE	ASSISTANCE PAID	FUTURE PROJECTED COSTS
1678	OLD STONE BANK FSB	495,743	0	78,700	79,378	79,378	0
1878	ATLANTIC FINANCIAL FEDERAL	55,588	0	0	0	0	0
1685	PACIFIC FIRST FSB	309,472	0	0	1,415	1,415	0
1689	EMPIRE OF AMERICA FSB	127,467	0	13,300	15,054	13,521	1,533
1692	COMMERCIAL FSLA	12,807	0	0	24	24	0
1699	FIRST NATIONWIDE BANK FSB	1,037,108	0	75,000	75,106	75,106	0
1700	FIRST NATIONWIDE BANK FSB	471,209	0	93,000	93,000	93,000	0
1701	SAN ANTONIO FSB	107,739	0	24,068	160,523	160,523	0
1879	GREAT AMERICAN FIRST SB FSB	56,427	0	0	0	0	0
1705	CHARTER OAK FSB	10,204	0	0	509	509	0
1787	FIRST NETWORK SAVINGS BANK	46,760	0	57,265	64,336	6,398	57,938
	TOTALS	13,343,851	0	1,031,040	932,735	870,232	62,503

27-Feb-91

DIVISION OF FSLIC OPERATIONS
REPORT OF ASSISTANCE TRANSACTIONS
QUARTER ENDING DECEMBER 31, 1990
DOLLARS
(000's OMITTED)

	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	PROJECTED CLAIMS 12-31-90	CLAIMS PAID THROUGH 12-31-90	PRIN PAID ON NOTES @ 12-31-90	INT PAID ON NOTES @ 12-31-90	PROJECTED PRIN BAL ON NOTES @ 12-31-90	PROJECTED INT DUE ON NOTES @ 12-31-90	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
PRE-1988 CONVENTIONAL CASES SUBTOTAL:	39,263,040	433,005	408,932	3,283,207	839,774	225,462	408,199	300,193	0	5,465,767	4,627,636
1988 CONVENTIONAL CASES SUBTOTAL:	60,272,291	9,366,353	6,208,887	2,664,336	609,115	847,108	4,830,310	2,222,288	(44,686)	17,337,358	16,155,855
SOUTHWEST CASES(1988) - SUBTOTAL:	44,119,869	19,346,180	16,890,061	7,759,768	312,355	2,357,937	12,924,377	8,812,644	(1,007,551)	48,049,591	47,780,983
ALL 1988 CASES SUBTOTAL:	104,392,160	28,712,533	23,098,948	10,424,104	921,470	3,205,045	17,754,687	11,034,932	(1,052,237)	65,386,949	63,936,838
1989 CONVENTIONAL CASES SUBTOTAL:	83,486	6,028	3,344	29,157	59,078	568	0	0	0	92,147	160,061
GRAND TOTAL:	143,738,686	29,151,566	23,511,224	13,736,468	1,820,322	3,431,075	18,162,886	11,335,125	(1,052,237)	70,944,863	68,724,535
CLOSED/TRANSFERRED CASES:	13,343,851	0	5,708	677,659	118,074	74,499	32,812	23,983	0	932,735	1,031,040

	# of Disapp. Instit.	# of Assis. Agrmts.
PRE-1988 CONVENTIONAL CASES SUBTOTAL:	88	63
1988 CONVENTIONAL CASES SUBTOTAL:	94	78
SOUTHWEST CASES(1988) - SUBTOTAL:	103	21
ALL 1988 CASES SUBTOTAL:	197	91
1989 CONVENTIONAL CASES SUBTOTAL:	3	2
GRAND TOTAL:	288	156
CLOSED/TRANSFERRED CASES:	50	46

NOTE: It is anticipated that $7.8 billion of promissory notes will be prepaid by March 1991. This prepayment will result in a $4.7 billion reduction to the total current cost estimate.

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	PROJECTED CLAIMS 12-31-90	CLAIMS PAID THROUGH 12-31-90	PRIN PAID ON NOTES @ 12-31-90	INT PAID ON NOTES @ 12-31-90	PROJECTED PRIN BAL ON NOTES @ 12-31-90	PROJECTED INT DUE ON NOTES @ 12-31-90	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
1600	NORTHEAST SAVINGS FA	(A)	0	396	153						549	(A)
1602	FARM & HOME SA	(A)	966	70	43,530						43,600	(A)
1608	HOUSEHOLD BANK FSB	60,779	0	249	15,708						15,957	20,717
1609	ANCHOR SB FSB	511,129	0	248	145,514						145,762	420,275
1610	INDEPENDENCE FSB	23,248	0	10	2,496						2,506	3,633
1611	BANK OF BALTIMORE	146,103	0	0	25,785						25,785	30,000
1612	FIRST NATIONWIDE BANK FSB	3,872,474	0	9,600	458,908						468,508	482,963
1616	GLENDALE FSLA	2,643,390	0	0	(253)						(253)	16,718
1619	HOME SAVINGS OF AMERICA FA	933,032	0	0	7,800						7,800	2,852
1620	HOME SAVINGS OF AMERICA FA	960,560	0	0	191,752						191,752	110,978
1628	INVESTORS SAVINGS BANK	110,669	0	0	18,861						18,861	14,782
1630	CITICORP SAVINGS FSLA	2,871,029	8,365	1,034	8,843						9,877	203,929
1633	NORTHEAST SAVINGS FA	980,841	0	0	12,815						12,815	82,145
1644	HOME FSLA OF SIOUX FALLS	109,959	0	0	8,663						8,663	8,000
1648	CROSSLAND SAVINGS FSLA	251,737	0	130	29,560						29,690	15,049
1649	LONG ISLAND SB FSB	2,502,795	0	0	1,220	35,000	8,720	15,000	3,377		63,317	75,000
1650	ANCHOR SB FSB	2,017,750	0	0	56,426						56,426	37,067
1651	ENSIGN BANK FSB	762,755	565	0	13,048						13,048	12,785
1652	CITICORP SAVINGS OF ILLINOIS	3,957,623	154,694	299,516	394,997						694,513	855,474
1659	HOUSEHOLD BANK FSB	399,856	0	1,175	66,019						67,196	58,400
1660	UNION FSB	322,319	0	0	26,687						26,687	19,611
1661	DOLLAR BANK FSB	1,054,337	0	0	80,848						80,848	67,500
1665	HOUSEHOLD BANK FSB	95,020	0	2	22,255						22,257	22,000
1666	MERITOR SAVINGS BANK	802,688	0	1,346	46,940	0	5,868	0	0		54,154	97,873
1669	HOUSEHOLD BANK FSB	92,911	0	36	16,154						16,190	15,500
1671	COLUMBIA FIRST FSLA	58,336	0	331	628						959	0
1672	SECURITY FSLA OF ALBUQUERQUE	204,834	0	0	13,536						13,536	2,860
1674	SECURITY SLA	28,000	300	108	10,217						10,325	6,279
1676	METROPOLITAN FEDERAL BANK FSB	42,183	0	12	241	0	639	2,000	784		3,676	1,700
1679	ANCHOR SAVINGS BANK FSB	373,276	0	458	12,397						12,855	15,111
1681	UNITED SAVINGS BANK FSB	603,904	36,692	2,562	42,910						45,472	56,423
1682	THE LONG ISLAND SB FSB	520,291	0	498	22,216						22,716	53,096
1684	GERMANIA BANK FSB	58,934	0	0	1						1	0
1686	CARTERET SB FA	139,227	3,319	3,817	24,682						28,499	0
1687	CITIZENS FEDERAL BANK FSB	739,730	0	712	88,630	0	13,698	36,000	13,505		152,545	40,841
1688	FIRST NATIONWIDE BANK FSB	549,361	0	220	69						289	0
1690	SECURITY PACIFIC SAVINGS BANK	262,404	0	0	25,549						25,549	21,377

FDIC MISCID	ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	PROJECTED CLAIMS 12-31-90	CLAIMS PAID THROUGH 12-31-90	PRIN PAID ON NOTES @ 12-31-90	INT PAID ON NOTES @ 12-31-90	PROJECTED PRIN BAL ON NOTES @ 12-31-90	PROJECTED INT DUE ON NOTES @ 12-31-90	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
1691	CITICORP SAVINGS OF WASHINGTON	1,116,233	0	4	52,885							
1693	TRANSOHIO SAVINGS BANK FSB	859,117	0	209	114,812						52,889	51,804
1694	MID-CONTINENT FSLA	22,557	514	390	9,208						115,021	122,226
1695	CHARTER BANK FOR SAVINGS FSB	21,336	461	436	3,101						9,598	8,853
1696	POUGHKEEPSIE SB FSB	217,461	0	0	249						3,537	2,390
1697	HERITAGE FSB	361,324	0	81	13,147						249	0
1698	HOMYCOR SAVINGS BANK FSB	160,348	0	6	24,848						13,228	12,900
1702	STANDARD PACIFIC SAVINGS FA	165,729	0	2,034	6,882						24,854	12,634
1703	INTERWEST SAVINGS BANK	150,598	0	0	26,408						9,716	5,000
1704	FIRST FSB OF NEW ORLEANS	26,815	0	122	12,438						26,408	22,000
1880	CROSSLAND SAVINGS FSB	430,753	0	0	0						12,560	10,059
1706	COAST SLA	1,696,717	15,490	12,360	334,055						0	0
1707	SOUTHERN CALIFORNIA SLA FSLA	983,842	0	1,054	223,115						346,415	289,559
1708	ENSIGN BANK FSB	194,336	0	140	13,004						224,169	217,500
1709	WASHINGTON FSLA	582,113	0	10	127,534						13,144	27,216
1710	THE GLOBE SB FSB	54,003	2,490	875	61,343						127,544	69,175
1711	FIRST FSLA	52,920	7,130	3,532	27,387						62,218	41,866
1712	GULF FEDERAL BANK FSB	6,074	0	0	854						30,919	22,743
1713	HOME SA OF KANSAS CITY FA	912,906	0	0	23	804,374	116,387	0	0		854	467
1714	SULPHUR SPRINGS L&BA	29,148	3,113	765	5,557						921,184	N/A
1715	UNITED SLA	20,490	0	0	2,393						6,322	5,809
1716	UNION FEDERAL SAVINGS BANK	402,445	0	179	21,007						2,393	2,336
1717	PELICAN HOMESTEAD AND SA	668,289	32,435	11,763	112,631	0	54,676	260,510	125,025		21,266	21,865
1718	SECOR BANK FSB	817,241	155,381	47,905	78,166	0	25,474	94,689	157,502		564,605	479,000
1719	CHAMPION FSLA	147,720	3,430	545	37,030						403,736	238,209
1720	COREAST SB FSB	183,050	7,610	3,192	39,245						37,575	40,581
											42,437	38,508
PRE-1989 CONVENTIONAL CASES SUBTOTAL:		39,263,040	433,005	408,932	3,283,207	839,774	225,462	408,199	300,193	0	5,465,767	4,627,636

FDIC HISCID ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	PROJECTED CLAIMS 12-31-90	CLAIMS PAID THROUGH 12-31-90	PRIN PAID ON NOTES @ 12-31-90	INT PAID ON NOTES @ 12-31-90	PROJECTED PRIN BAL ON NOTES @ 12-31-90	PROJECTED INT DUE ON NOTES @ 12-31-90	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
1721 HOME FSLA OF ROCKFORD	30,410	71	55	13,962						14,017	14,712
1722 ATLANTIC FINANCIAL FEDERAL	722,619	10,128	1,481	60,528	0	14,412	85,000	55,007		216,428	72,269
1723 GREAT WEST SAVINGS BANK FSB	30,090	0	0	3,811	0	327	1,250	1,558		6,946	3,075
1724 STATESMAN BANK FOR SAVINGS FSB	601,690	58,870	32,314	121,456	25,854	11,560	29,267	3,099		223,550	167,768
1725 STERLING SAVINGS ASSOCIATION	53,800	869	1,315	13,246						14,561	17,296
1726 LEMONT SA	38,610	0	0	6,100						6,100	6,460
1727 HOME FSLA	88,140	0	31	7,173						7,206	7,141
1728 HANSEN SB SLA	244,780	6,838	4,097	84,431						88,528	71,565
1729 EUREKA FSLA	1,762,490	65,613	29,240	441,757						470,997	269,625
1730 FIRST FSB OF HEMPSTEAD	26,310	2,172	1,026	8,855						9,879	9,880
1731 SECURITY SB FSB	46,420	0	0	10,978						10,978	9,560
1732 AMERIBANK FSB	211,830	0	0	3,876						3,876	6,000
1733 EUREKA FSLA	75,970	14,176	4,234	11,173						15,407	8,082
1734 WORLD SLA FSLA	24,040	0	73	9,173						9,246	5,400
1735 RIVER VALLEY SB FSB	177,190	6,939	3,258	40,265						43,523	34,500
1736 RIVER VALLEY SB	36,540	5,188	2,390	17,507						19,897	17,831
1737 FIRST FSB NORTHWEST	80,270	0	933	12,567						13,508	9,445
1738 UNITED SAVINGS OF AMERICA	36,130	0	0	2,765						2,765	2,606
1739 STANDARD FSLA OF CHICAGO	255,610	6,432	717	13,724•	5,142	2,148	12,857	1,373		35,961	12,711
1740 FIRST FSLA OF LINCOLN-IOWA	48,597	0	0	13,890						13,890	12,222
1741 METROPOLITAN FB OF IOWA	1,154,116	95,184	45,961	66,184	0	59,678	294,904	177,190		643,917	626,352
1742 WASHINGTON FSLA	26,500	0	0	2,459						2,459	2,389
1743 OLD STONE BANK OF CALIFORNIA	182,240	0	296	45,670						45,966	40,108
1744 SECURITY TRUST FSLA	40,170	2,526	1,144	19,659						20,803	17,232
1745 CITIZENS FSB	59,320	0	51	108						159	0
1746 FEDERAL SB OF ROGERS	122,380	6,693	4,162	22,470						26,632	25,431
1747 UNITED SAVINGS OF AMERICA	40,120	0	0	3,722						3,722	3,605
1748 SECOR BANK FSB	76,560	0	0	12,968						12,968	12,950
1749 WASHINGTON FSLA	306,960	0	3	(971)	0	6,672	30,985	24,479		61,168	60,890
1750 WESTERN FSL	931,910	290,983	66,731	37,472	227,542	100,916	348,067	61,444		842,172	695,756
1751 HOME FSLA OF ROCKFORD	41,530	0	0	5,030						5,030	4,958
1752 UNION FSB OF INDIANAPOLIS	161,570	13,177	4,244	34,143						38,387	36,286
1753 UNION FSB OF FRANKTON	30,730	0	0	3,012						3,012	
1754 BUTTERFIELD SLA FSA	517,150	94,602	13,431	21,743	36,741	37,212	222,968	61,444		393,559	386,272
1755 FIRST FEDERAL BANK FSB	60,410	1	0	8,629						8,629	9,338
1756 AMERIANA SB FSB	52,410	1	0	5,881						5,881	5,372
1757 TRACY SLA FA	46,350	0	126	3,534						3,660	2,951

FDIC MISCID ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	PROJECTED CLAIMS 12-31-90	CLAIMS PAID THROUGH 12-31-90	PRIN PAID ON NOTES @ 12-31-90	INT PAID ON NOTES @ 12-31-90	PROJECTED PRIN BAL ON NOTES @ 12-31-90	PROJECTED INT DUE ON NOTES @ 12-31-90	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
1758 FIRST FSB OF INDIANA	338,896	0	69	28,976						29,045	28,750
1759 REPUBLIC SB FSB	51,450	0	0	25,966						25,966	25,200
1760 PEOPLES FSB	368,550	0	0	34,976						34,976	34,900
1761 CROSSLAND SAVINGS FSB	61,950	0	6	11,284						11,290	11,841
1762 FIRST NATIONWIDE BANK FSB	1,242,620	55,038	8,054	52,777	32,857	14,060	82,143	19,385		209,276	186,599
1763 FLAGSHIP FSB	97,770	955	317	7,608						7,925	23,607
1764 SOUTHSIDE SB FSB	57,310	1,781	443	10,660						11,103	10,386
1765 MIDAMERICA SB FSB	256,470	0	0	14,000						14,000	14,000
1766 FIRST WESTERN FSLA-WENATCHEE	50,160	0	0	1,975						1,975	1,970
1767 PACIFIC FIRST FSB	788,730	119,056	52,347	51,205	0	13,374	83,418	21,162		221,506	224,614
1768 FIRST FSLA OF LINCOLN	25,450	0	0	19,292						19,292	19,525
1769 WORLD SLA OF OHIO	321,038	0	253	84,588						84,841	83,689
1770 FIRST NATIONWIDE BANK FSB	881,026	0	64	(7,079)	0	19,778	174,882	76,781	(15,336)	249,092	256,313
1771 CITICORP SAVINGS OF ILLINOIS	69,080	9,733	3,164	14,539						17,703	21,695
1772 NVR SAVINGS BANK FSB	287,140	42,736	1,209	86,369						87,578	77,204
1773 VIRGINIA FSB	685,200	0	0	13,500						13,500	13,500
1774 ROCKY MOUNTAIN FSB	576,263	91,190	49,827	28,254	0	18,506	117,575	30,237		244,677	211,078
1775 BARNETT FSB	254,590	0	0	5,002						5,002	4,880
1776 NEW WEST FSLA	30,142,050	4,371,300	3,930,516	262,032	259,327	40,032	209,335	118,059		4,819,301	4,000,000
1777 CITIZENS FEDERAL BANK FSB	891,820	14,651	8,997	148,991	0	3,666	25,000	38,642	(29,350)	195,946	203,289
1778 JACKSON COUNTY FSLA	275,470	12,050	28,072	46,915						74,987	77,358
1779 NORTHWEST FSB	202,673	22,081	3,129	1,642	0	9,601	61,577	39,481		115,430	109,918
1780 FIRST NATIONWIDE BANK FSB	8,174,360	2,810,654	1,540,843	195,509	0	72,139	519,304	298,298		2,626,093	2,802,723
1781 METROPOLITAN FB OF IOWA	262,350	28,343	8,215	8,726	0	9,234	58,283	38,846		123,304	124,442
1782 WESTERN FSB OF MONTANA	128,970	3,711	1,159	10,885						12,044	11,520
1783 HOME FSLA	556,792	71,153	9,478	4,378	0	35,317	283,329	63,970		396,472	356,428
1784 SOUTHEAST BANK FOR SAVINGS	132,843	0	787	29,508						30,215	29,000
1785 NEW METROPOLITAN FSLA	1,156,740	0	9,008	(3,044)	0	192,095	1,061,194	340,121		1,599,344	1,905,980
1786 SUPERIOR BANK FSB	1,485,030	407,809	106,420	107,347	21,652	28,031	206,911	101,779		572,140	538,161
1788 RIVER VALLEY SB FSB	176,350	0	0	3,300	0	2,484	13,200	11,079		30,063	31,181
1789 CALIFORNIA FB FSB	549,690	117,202	64,678	32,131	0	15,669	97,395	64,953		274,826	252,435
1790 BEVERLY HILLS FSB	1,190,080	506,447	164,597	135,167	0	140,119	811,446	573,881		1,825,230	1,769,618
1791 HOME FSLA OF SIOUX FALLS	95,440	0	10	8,007						8,017	8,000
1988 CONVENTIONAL CASES SUBTOTAL:	60,272,291	9,366,353	6,208,887	2,664,336	609,115	847,108	4,830,310	2,222,288	(44,686)	17,337,358	16,155,855

FDIC MISCID ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS 12-31-90	PROJECTED CLAIMS 12-31-90	CLAIMS PAID THROUGH 12-31-90	PRIN PAID ON NOTES @ 12-31-90	INT PAID ON NOTES @ 12-31-90	PROJECTED PRIN BAL ON NOTES @ 12-31-90	PROJECTED INT DUE ON NOTES @ 12-31-90	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
1792 FIRST COOK BANK FOR SAVINGS FSA	28,486	6,028	3,059	17,339	59,078	568	0	0		80,044	147,946
1793 FIRST TROPICAL SB FSB	55,000	0	285	11,818						12,103	12,115
1989 CONVENTIONAL CASES SUBTOTAL:	83,486	6,028	3,344	29,157	59,078	568	0	0	0	92,167	160,061
1794 COASTAL BANC SA	456,270	227,445	184,846	100,764	0	8,728	41,972	27,781		364,091	237,225
1795 SOUTHWEST SAVINGS ASSOCIATION	4,093,960	2,395,506	2,324,336	969,031	0	106,053	873,104	553,990		4,826,516	3,727,329
1797 AMERICAN FEDERAL BANK FSB	2,168,610	1,360,005	1,104,299	657,589	0	117,508	582,894	394,468		2,856,758	2,399,180
1798 SUNBELT SAVINGS FSB	4,873,683	3,284,146	2,909,275	1,348,386	0	692,697	3,471,676	2,415,952	(380,061)	10,457,925	11,420,972
1796 MERABANK TEXAS FSB	(Incl. w/1799)									0	
1799 MERABANK TEXAS FSB	809,140	316,403	282,192	91,582	0	132,543	586,183	414,596	(60,964)	1,446,132	1,628,920
1800 CIMARRON FSLA	844,182	246,487	153,647	41,479	93,555	3,653	0	0		292,334	709,492
1801 RED RIVER FSLA	506,651	223,655	179,992	47,104	40,000	4,138	14,161	9,438		294,833	258,875
1802 CHISHOLM FSLA	175,362	53,094	35,894	10,523	16,000	4,130	21,496	14,301		102,344	105,215
1803 HEARTLAND FSLA	1,086,904	365,387	175,630	58,889	140,000	4,784	0	0		379,303	503,906
1804 HEIGHTS OF TEXAS FSB	1,304,270	914,857	861,531	455,155	0	94,168	315,600	218,448		1,944,902	2,008,069
1805 FIRST HEIGHTS FSA	(Incl. w/1804)										
1806 GUARANTY FEDERAL SB	3,051,390	1,438,235	1,134,629	551,512	0	204,208	1,094,488	782,587		3,767,424	3,324,969
1807 FRANKLIN FEDERAL BANCORP FSB	1,210,830	768,347	851,286	296,853	0	94,384	478,897	279,708	(49,879)	1,951,249	1,872,234
1808 AMWEST SAVINGS ASSOCIATION	3,677,340	1,444,516	1,563,953	623,138	0	78,861	428,789	300,231	(35,225)	2,959,747	2,625,201
1809 AMERICITY FSB	251,080	237,152	258,585	85,708	0	3,807	31,581	22,310		401,991	281,653
1810 BLUEBONNET SAVINGS BANK	1,803,800	1,421,568	1,606,590	536,605	0	121,487	760,200	538,310		3,563,192	3,377,666
1811 FIRST GIBRALTAR BANK FSB	11,404,810	2,650,235	1,776,872	962,619	0	533,509	3,385,268	2,234,012	(428,272)	8,464,008	8,890,667
1812 PACIFIC SOUTHWEST SB FSB	832,790	508,879	402,002	169,395	0	55,461	281,111	224,455	(44,975)	1,087,449	1,282,350
1813 TEXAS TRUST SB FSB	317,990	255,889	374,069	98,594	22,800	34,666	167,266	119,777	(8,175)	808,997	657,253
1814 LOCAL AMERICAN BANK OF TULSA	526,350	110,969	49,941	43,224	0	7,218	39,757	10,802		150,942	126,019
1815 UNITED SA OF TEXAS FSB	4,412,780	1,060,416	584,864	567,044	0	49,156	309,544	224,277		1,734,885	2,201,872
1816 EQUITY BANK FOR SAVINGS	311,677	62,909	75,628	44,574	0	6,778	40,390	27,201		194,571	141,936
SOUTHWEST CASES - SUBTOTAL:	44,119,869	19,346,180	16,890,061	7,759,768	312,355	2,357,937	12,924,377	8,8[illegible]2,644	(1,007,551)	48,049,591	47,780,983
GRAND TOTAL:	143,738,686	29,151,566	23,511,224	13,736,468	1,820,322	3,431,075	18,162,886	11,335,125	(1,052,237)	70,944,863	68,724,535

A:Pre 1980 Cases. AED Original Cost data is only available from 1980 forward.

27-Feb-91

DIVISION OF FSLIC OPERATIONS
REPORT OF ASSISTANCE TRANSACTIONS
CLOSED CASES
DOLLARS
(000's OMITTED)

FDIC MISCID ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS	PROJECTED CLAIMS	CLAIMS PAID	PRIN PAID ON NOTES	INT PAID ON NOTES	PROJECTED PRIN BAL ON NOTES	PROJECTED INT DUE ON NOTES	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
1601 ASTORIA	(A)	0	0	16						16	(A)
1603 HOME FEDERAL SAVINGS BANK	(A)	0	0	39,673						39,673	(A)
1604 HOUSEHOLD BANK FSB	148,800	0	0	14,611						14,611	22,000
1605 STANDARD FEDERAL BANK	128,794,	0	0	13,269						13,269	30,096
1606 AVONDALE FSB	97,045	0	0	2,059						2,059	45,000
1616 UNITED POSTAL SA	414,542	0	0	52,603	22,074	6,113	0	0		80,790	80,165
1617 EMPIRE OF AMERICA FSB	286,316	0	0	9,992						9,992	9,943
1618 CITY SAVINGS BANK FSB	380,825	0	420	13,144						13,564	43,735
1621 CITY SAVINGS BANK FSB	403,465	0	1,090	9,367						10,457	9,610
1622 MUTUAL HOME & SA	23,937	0	0	4,[illegible]						4,275	7,371
1623 ILLINOIS SERVICE FSLA	2,812	0	0	292						292	53[illegible]
1626 EMPIRE OF AMERICA FSB	1,988,882	0	0	7,000						7,000	127,500
1627 SECURITY SB SLA	139,016	0	0	3,990						3,990	14,752
1629 BAYSIDE FSB	147,804	0	0	8,798						8,798	8,014
1631 SUN COUNTRY SB OF NEW MEXICO	34,880	0	0	1,353						1,353	1,761
1634 EMPIRE OF AMERICA FSB	649,027	0	115	31,467						31,582	30,921
1636 GREAT AMERICAN FSLA	138,357	0	30	9,797						9,827	9,500
1638 COMMUNITY FSLA	756,531	0	200	53,508						53,708	44,842
1640 ROOSEVELT BANK FSB	81,767	0	0	11,879						11,879	10,684
1641 HORIZON FINANCIAL FA	182,916	0	0	11,325						11,325	11,150
1643 FIRST JACKSON SB FSB	34,727	0	0	0						0	1,650
1645 TCF BANKING & SAVINGS FA	362,884	0	0	2,270						2,270	1,410
1653 CITICORP SAVINGS OF FLORIDA	1,936,860	0	0	389						389	0
1654 MIDWEST FSB	259,188	0	2	40,484						40,486	54,705
1655 FIRST SLA OF AMERICA	64,124	0	0	8,825						8,825	10,740
1657 GIBRALTER SB FSB	233,382	0	975	4,011						4,986	37,500
1658 HOME SAVINGS OF AMERICA FA	737,461	0	0	6,470						6,470	5,040
1662 CAGUAS FSB OF PUERTO RICO	43,839	0	200	1,703						1,903	26,044
1664 ATLANTIC FINANCIAL SB FSB	112,860	0	0	0						0	2,636
1667 HOME SAVINGS OF AMERICA FA	216,776	0	[illegible]	0						0	0
1670 BENJAMIN FRANKLIN FSLA	174,947	0	0	8,800						8,800	8,800
1673 HOMEOWNERS SB FSB	255,626	0	0	17,500						17,500	17,500
1675 STERLING SA	52,500	0	0	1,764						1,764	1,750
1677 REPUBLIC SB FSB	122,437	0	0	21,537						21,537	16,269

27-Feb-91

DIVISION OF FSLIC OPERATIONS
REPORT OF ASSISTANCE TRANSACTIONS
CLOSED CASES
DOLLARS
(000's OMITTED)

FDIC MERGED ASSOCIATION	ASSETS AT TAKEOVER	COVERED ASSETS	PROJECTED CLAIMS	CLAIMS PAID	PRIN PAID ON NOTES	INT PAID ON NOTES	PROJECTED PRIN BAL ON NOTES	PROJECTED INT DUE ON NOTES	PROJECTED RETURN ON CORPORATE ASSETS	CURRENT TOTAL COST ESTIMATE	ORIGINAL COST ESTIMATE
1678 OLD STONE BANK FSB	495,743	0	0	79,378						79,378	78,700
1878 ATLANTIC FINANCIAL FEDERAL	55,588	0	0	0						0	0
1685 PACIFIC FIRST FSB	309,472	0	0	1,415						1,415	0
1689 EMPIRE OF AMERICA FSB	127,467	0	1,533	13,521						15,054	13,300
1692 COMMERCIAL FSLA	12,807	0	0	24						24	0
1699 FIRST NATIONWIDE BANK FSB	1,037,108	0	0	75,106						75,106	75,000
1700 FIRST NATIONWIDE BANK FSB	471,209	0	0	93,000						93,000	93,000
1701 SAN ANTONIO FSB	107,739	0	0	1,500	96,000	63,023	0	0		160,525	24,068
1879 GREAT AMERICAN FIRST SB FSB	56,427	0	0	0						0	0
1705 CHARTER OAK FSB	10,204	0	0	509						509	0
1787 FIRST NETWORK SAVINGS BANK	46,760	0	1,143	1,035	0	5,363	32,812	23,983		64,336	57,265
TOTALS	13,343,851	0	5,708	677,659	118,074	74,499	32,812	23,983	0	932,735	1,031,040

ATTACHMENT B

FSLIC Promissory Notes
($ Billions)

RTC Report Caption	Notes Outstanding 7-1-90	Prepayments Completed/Pending in FY 91	Prepayments Possible in FY 91	Other	Prepayments Restricted to FY 92 and Thereafter
Notes Prepayable Before 12-31-90	$5.8	$4.3	$1.2	$0.3	$0.0
Notes Prepayable After 12-31-90	4.3	0.7	0.4	0.1	3.1
Conditionally Prepayable	1.2	0.0	1.2	0.0	0.0
Totals	$11.3	$5.0	$2.8	$0.4 *	$3.1

Notes: * Of this total $0.2 billion represents one note where the annual prepayment date passed before prepayment could take place. The other $0.2 billion is comprised of contractual principal payments and audit adjustments which reduced the balance of notes outstanding.

ATTACHMENT C1

FDIC - OIG
AUDIT REPORTS - RESOLUTION FUND
Year 1990

	TITLE	Date	Audit No.
1.	Audit of United Federal Savings Bank Case Number: C-213C	01/02/90	90-001
2.	Audit of Roosevelt Federal Savings and Loan Association Case Number C-183c	01/02/90	90-002
3.	Illinois/Service Federal Savings and Loan Association Assistance Agreement, Case Number C-136c	01/02/90	90-003
4.	Audit of Long Island Savings Bank, FSB Syosset, New York Case Number: C-196c	01/08/90	90-018
5.	Anchor Savings Bank, FSB Assistance Agreement, Case Number C-113c	01/18/90	90-020
6.	Anchor Savings Bank, FSB Assistance Agreement, Case Number C-267c	01/18/90	90-021
7.	Land of Lincoln/Financial Security Savings and Loan Association Assistance Agreement, Case Number C-112c	01/18/90	90-023
8.	Anchor Savings Bank, FSB Assistance Agreement, Case Number C-197c	01/18/90	90-026
9.	Land of Lincoln/First Calumet City Savings Assistance Agreement, Case Number C-101c	01/18/90	90-027
10.	Anchor Savings Bank, FSB Assistance Agreement, Case Number C-110c	01/24/90	90-028
11.	Security Savings and Loan Association Assistance Agreement, Case Number C-150c	01/24/90	90-033
12.	Audit of Avondale Federal Savings Bank Case Number C-109c	01/31/90	90-034
13.	Standard Federal Savings and Loan Association Case Number: C-105c	05/09/90	90-069
14.	Sun Country Savings Bank, FSB Case Number: C-161c	05/09/90	90-070
15.	Mutual Home and Savings Association Case Number: C-134c	05/15/90	90-075
16.	Ensign Bank, FSB. Case Number C-199c	06/08/90	90-080
17.	Great American First Savings Bank Assistance Agreement Case Number C-271c	06/08/90	90-081
18.	Report on the Limited Review of the Dallas Consolidated Office's Records of Asset Management Contractors and Subcontractors	06/15/90	90-082
19.	First Florida Federal Savings Bank Assistance Agreement, Case No. C-194c	06/29/90	90-086
20.	South Texas Savings Association, Assistance Agreement Case No. C-116c	06/29/90	90-087

21.	United Savings Bank Case Number C-272c	06/29/90	90-088
22.	Audit of Citizens FS&LA, Assistance Agreement Case Number C-279c	07/20/90	90-095
23.	Meritor Savings, F.A., Assistance Agreement, Case Number C-231c	07/20/90	90-097
24.	Pacific First Federal Savings Bank, Assistance Agreement, Case Number C-277c	08/01/90	90-098
25.	Audit of Contractors' Monitoring of Southwest Plan Assistance Agreement Kenneth Leventhal & Co. at Guaranty Federal Savings Bank	08/21/90	90-103
26.	Audit of Contractors' Monitoring of Southwest Plan Assistance Agreements Coopers & Lybrand at Southwest Savings Association	09/14/90	90-112
27.	First Federal Savings & Loan Association of Lake Charles, Assistance Agreement, Case Number C-311c	09/28/90	90-114
28.	Audit of Division of FSLIC Operations' Assistance Monitoring Activities Related to the Citizens FS&LA Assistance Agreement Case Number: C-279c	10/04/90	90-115
29.	Raritan Valley Savings & Loan Association Assistance Agreement, Case Number C-329c	10/10/90	90-116
30.	Home FS&LA Rockford, Illinois Assistance Agreement, Case Number C-322c	10/26/90	90-123
31.	Audit of Contractors' Monitoring of Southwest Plan Assistance Agreement Ernst & Young At AmWest Savings	11/01/90	90-124
32.	Audit of Contractors' Monitoring of Southwest Plan Assistance Agreement Coastal Realty Partners at Equity Bank for Savings	11/01/90	90-125
33.	Limited Review of Mezzanine Management,Inc.	10/25/90	90-126
34.	The Globe Savings Bank F.S.B. Assistance Agreement, Case Number C-310c	11/14/90	90-128
35.	Home Savings of America, Los Angeles, California Assistance Agreement, Case Number C-129c and C-130c	11/16/90	90-129
36.	Home Savings of America Assistance Agreement Case Number C-216c	11/20/90	90-130
37.	Federal Savings Bank of Rogers, Arkansas Assistance Agreement, Case Number C-347c	12/10/90	90-134
38.	Eureka Federal Savings and Loan Association Assistance Agreement, Case Number C-334c	12/12/90	90-135
39.	Sulphur Springs Loan and Building Association Assistance Agreement, Case Number C-315c	12/18/90	90-139
40.	Eureka Federal Savings and Loan Association Assistance Agreement, Case Number C-330c	12/17/90	90-142

FDIC - OIG
AUDIT REPORTS - RESOLUTION FUND
Year 1991

	TITLE	Date	Audit No.
001.	Western Federal Savings and Loan Association Assistance Agreement, Case Number C-352c	01/03/91	91-002
002.	Franklin Federal Bancorp Case Number: SWP-016c	03/15/91	91-016
003.	Guaranty Federal Savings Bank, FSB Case Number: SWP-015c	03/18/91	91-018
004.	Meritor Savings, F.A. Assistance Agreement, Case Number C-231c	04/05/91	91-020

ATTACHMENT C2

SUMMARY AUDIT REPORT

OFFICIAL AUDIT RELEASE

November 1, 1990

MEMORANDUM TO: Board of Directors
Audit Committee

FROM: Robert D. Hoffman
Inspector General

SUBJECT: Audit of Contractors' Monitoring of Southwest Plan Assistance Agreements
Coastal Realty Partners at Equity Bank for Savings

As part of our responsibility for providing independent audits of Corporation activities for the Board of Directors, we are reviewing the Federal Deposit Insurance Corporation (FDIC) program for administering the financial assistance agreements which resulted from the Federal Savings and Loan Insurance Corporation's (FSLIC) Southwest Plan. The Southwest Plan involved assisted acquisitions of failed associations in Texas and Oklahoma. This review was conducted by the Savings Liquidation Financial Audit Branch under the management of Marilyn Rother Kraus. This report details the results of our review of the contract with Coastal Realty Partners for the purpose of monitoring the Assistance Agreement between the FSLIC and Equity Bank for Savings.

As the size and frequency of the Southwest Plan resolution actions increased, the Financial Assistance Division (FAD) of FSLIC determined that it did not have the resources to review all the Southwest Plan quarterly reports and contracted with firms to provide on-site review of the quarterly reports and to make recommendations to the FAD on the payment of net debit balances. Other services are provided by the contractors, but these services were outside the scope of this audit. For the period March 1989 through July 1990, Coastal Realty Partners received $329,154 in payments for services performed at Equity. The FSLIC competitively awarded 23 contracts as part of this program. The FDIC, Division of FSLIC Operations (DFO) is responsible for administering financial assistance under the assistance agreements.

Our review of Coastal Realty Partners and Equity was begun on August 1, 1990 and fieldwork was completed on September 14, 1990. The audit was conducted by D. Howard Kinhart, Diana M. Stebick, R. Susan Eliason, and Mary J. Cotter. Our audit was performed in accordance with generally accepted government auditing standards.

SCOPE AND OBJECTIVES

The scope of this audit included an evaluation of the contract entered into by the FSLIC with Coastal Realty Partners and an examination of the work completed by the contractor. The audit also included a review of contract administration and the assistance paid to the acquirer. The period covered by the audit was March 1, 1989, through July 31, 1990. The audit objectives were to determine whether the program achieved its objective of providing effective administration of the assistance agreement and was managed economically and effectively, and to determine the program's impact on the scope of the Office of Inspector General's compliance audit of the Assistance Agreement.

CONCLUSIONS

Overall conclusions relating to the audit of the assistance agreement monitoring program are not presented at this time. After our review of a sufficient number of monitoring contracts, those conclusions will be provided in a summary audit report.

The results of our audit of Coastal Realty Partners' monitoring of Equity's Assistance Agreement are summarized below.

> Achievement of Program Objectives - DFO had provided each contractor with a set of procedures for reviewing the quarterly reports. Coastal Realty Partners' compliance with the contractors' procedures was very good.
>
> Program Administration - DFO's controls over the contract, modifications, and billings were fair. Hourly rates paid were in compliance with the contract and documentation of expense items was complete. However, in 1989, the contract limit was exceeded by $26,284. According to DFO personnel, the individual task assignment limits were not tracked; rather expenditures of project funds as a whole were controlled, with adjustments among task assignments being made as necessary to meet billing needs. From our review of the 1990 invoices it seems likely that the 1990 contract limit will also be exceeded once all invoices have been submitted by Coastal Realty.
>
> Impact on Assistance Agreement Audit - The program provided reasonable assurance that the transactions filed in the quarterly report were in compliance with the Agreement, however the contract did not require Coastal to review Equity's records for unrecorded transactions. Therefore, the possibility exists that credits, which should have been posted to the Special Reserve Accounts by Equity to offset assistance payments by the FSLIC or the FDIC, were not processed. Consequently, the Office of Inspector General will place additional emphasis on the disclosure of unrecorded transactions during the performance of compliance audits of this Assistance Agreement.

REPORT RECOMMENDATIONS

The Division of FSLIC Operations, FDIC, concurred with the draft of this report and will establish procedures for tracking expenditures on a monthly basis.

EXECUTIVE ACTION REQUIRED

No action on the report is required by the Audit Committee or Board of Directors.

DETAILED AUDIT REPORT

OFFICIAL AUDIT RELEASE

November 1, 1990

MEMORANDUM TO: Gerald B. Stanton
Assistant Director
Division of FSLIC Operations

FROM: David H. Loewenstein David H Loewenstein
Assistant Inspector General
Office of Liquidation Financial Evaluation Audits

SUBJECT: Audit of Contractors' Monitoring of Southwest Plan Assistance Agreements
Coastal Realty Partners at Equity Bank for Savings

As part of our responsibility for providing independent audits of Corporation activities for the Board of Directors, we are reviewing the Federal Deposit Insurance Corporation (FDIC) program for administering the financial assistance agreements which resulted from the Federal Savings and Loan Insurance Corporation's (FSLIC) Southwest Plan. The Southwest Plan involved assisted acquisitions of failed associations in Texas and Oklahoma. This review was conducted by the Savings Liquidation Financial Audit Branch under the management of Marilyn Rother Kraus. This report details the results of our review of the contract with Coastal Realty Partners for the purpose of monitoring the Assistance Agreement between Northwest Federal Savings and Loan Association and the FSLIC. Northwest changed its name to Equity Bank for Savings in July 1989. Also, Coastal Realty Partners subsequently contracted with the certified public accounting firm of Blakely & Bandy to perform the review of the Special Reserve Accounts. As part of our review, the contracts to monitor two other agreements have been evaluated and reports of those results have been issued earlier this year.

In order to comply with the provisions established by the assistance agreements, the acquirers were required to file with the Financial Assistance Accounting Branch quarterly reports of the transactions in the Special Reserve Accounts. The Special Reserve Accounts were memorandum accounts established to monitor the various types and amounts of assistance provided as a result of the agreement. In conventional assistance cases, the quarterly reports were filed directly with the Financial Assistance Branch, which reviewed and approved them, and then paid any net debit balance to the acquirers.

However, as the size and frequency of the Southwest Plan resolution transactions increased, the Financial Assistance Division (FAD) of FSLIC determined that it did not have the resources to review all the Southwest Plan quarterly reports and contracted with firms to provide on-site review of the quarterly reports and to make recommendations to the FAD on the payment of net debit balances. Other services are provided by the contractors, but those services were outside the scope of this audit. For the period March 1989 through July 1990, Coastal Realty Partners received $329,154 in payments for services performed at Equity. These payments included the costs associated with the work performed by Blakely & Bandy. The FSLIC competitively awarded 23 contracts as part of this program. As an extension of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), FSLIC activities were consolidated under the FDIC on October 8, 1989. The FDIC, Division of FSLIC Operations (DFO) is responsible for administering financial assistance under the assistance agreements.

Our review of Coastal Realty, Blakely & Bandy, and Equity was begun on August 1, 1990 and fieldwork was completed on September 14, 1990. The audit was conducted by D. Howard Kinhart, Diana M. Stebick, R. Susan Eliason, and Mary J. Cotter. Our audit was performed in accordance with generally accepted government auditing standards.

SCOPE AND OBJECTIVES

The scope of this audit included an evaluation of the contract entered into by the FSLIC with Coastal Realty and an examination of the work completed by the contractor and the subcontractor, Blakely & Bandy. The audit also included a review of contract administration and the assistance paid to the acquirer. The period covered by the audit was March 1, 1989, through July 31, 1990. The audit objectives were to

effective administration of the Assistance Agreement and was managed economically and effectively, and to determine the program's impact on the scope of the Office of Inspector General's compliance audit of the Assistance Agreement.

CONCLUSIONS

Overall conclusions relating to the audit of the assistance agreement monitoring program are not presented at this time. After our review of a sufficient number of monitoring contracts, those conclusions will be provided in a summary audit report.

The results of our audit of Coastal Realty's and Blakely & Bandy's monitoring of Equity's Assistance Agreement are summarized below. A detailed discussion of each condition and recommendation is presented in the "Condition, Recommendations and Auditee Response" section of this report.

> Achievement of Program Objectives - DFO had provided each contractor with a set of procedures for reviewing the quarterly reports. Blakely & Bandy's compliance with the contractors' procedures was very good. The working paper files prepared by the subcontractor documented the steps completed to address the contractors' procedures.
>
> Program Administration - DFO's controls over the contract, modifications, and billings were fair. Hourly rates paid were in compliance with the contract and documentation of expense items was complete. However, in 1989, the contract limit was exceeded by $26,284. According to FAB personnel, the individual task assignment limits were not tracked; rather expenditures of project funds as a whole were controlled, with adjustments among task assignments being made as necessary to meet billing needs. From our review of the 1990 invoices it seems likely that the 1990 contract limit will also be exceeded once all invoices have been submitted by Coastal Realty.
>
> Impact on Assistance Agreement Audit - The program provided reasonable assurance that the transactions filed in the quarterly report were in compliance with the Agreement, however the contract did not require Blakely & Bandy to review Equity's records for unrecorded transactions. Therefore, the possibility exists that

AUDIT PROCEDURES

Audit procedures included but were not limited to: reviewing work programs to ensure that the contractors' procedures were adequately addressed; reviewing work programs to ensure that the steps were initialed and referenced to working papers which documented that the work was performed; evaluating support for clarity and completeness; reviewing a sample of accounting records to ensure that debits and credits on the quarterly reports were proper; comparing report of work performed to supporting documentation; footing invoices; comparing invoices to payments; comparing labor rates charged to contract rates; comparing total amount paid to contract amount; and interviewing FDIC and Coastal Realty personnel responsible for various aspects of the program. The preliminary audit results were discussed on August 8, 1990 with Coastal Realty.

CONDITIONS, RECOMMENDATIONS, AND AUDITEE RESPONSE

- o **Task Assignment and Contract Limitations on Expenditures were Exceeded**

Condition: In 1989, the contract between FSLIC/FDIC and Coastal Realty Partners provided $216,000 and $100,000, respectively, for labor and expense charges, including billings by subcontractors, for both the Equity task assignment and the Chisholm Federal Savings & Loan Association task assignment. Chisholm was another Southwest Plan transaction. The amount of the contract was evenly split between the two task assignments. The amount allocated for the Equity task assignment was exceeded by $25,028 and the amount allocated to the Chisholm task assignment was exceeded by $1,256. According to Financial Assistance Branch personnel, the individual task assignment and contract limits were not tracked; rather, expenditures of program funds as a whole were controlled, with adjustments among task assignments and contracts being made as necessary to meet billing needs.

From our review of the 1990 invoices it seems likely that the 1990 contract limit of $317,732 for both labor and expenses will also be exceeded once all invoices have been submitted by Coastal Realty for both the Equity and Chisholm task assignments. Through August 11, 1990, $292,257 had been

At Coastal, DFO has exhibited poor internal controls over expenditures at the task assignment and contract levels. In the original request for proposal FSLIC specified that the contractor should not exceed the authorized dollar limitation per task order. According to the contract, it is the responsibility of the contracting officer to adjust the contract ceiling price in response to changes in the contractor's assigned responsibilities. Coastal's contract was not adjusted until after the costs of the additional work were incurred. If expenditures are incurred but not monitored on the task assignment and contract levels, then the possibility exists that the Southwest Plan monitoring program may become underfunded and DFO will find itself in the position of being unable to meet its obligations to its contractors.

Recommendation: We recommend that DFO control amounts spent on the active Southwest Plan monitoring contracts by individual task assignment and contract to assure that invoice payments are within prescribed limits. It is also recommended that DFO review all terminated Southwest Plan monitoring contracts to determine if any contracts were terminated with deficits in task assignments.

Auditee Response: Management concurred with the audit recommendations and has adopted new procedures for tracking expenditures on a monthly basis.

Auditor

Diana Stelick
Auditor

R Susan Eliason
Auditor

Mary J. Cotte
Auditor

Concurred:
Marilyn Rother Kraus
Marilyn Rother Kraus, Audit Manager

MEMORANDUM October 30 , 1990

TO: David H. Loewenstein
Assistant Inspector General
Liquidation Financial Evaluation Audits

FROM: Gerald B. Stanton G.B. Stanton
Assistant Director

SUBJECT: Response to Audit Report Draft
Audit of Contractors' Monitoring Southwest Plan
Assistance Agreements
Coastal Realty Partners at Equity Bank
Report Number SL 90-003D

Pursuant to the provisions of the Inspector General (IG) Act Amendments of 1988, P.L. 100-504, the following management decision is provided. This is in response to the IG's Detailed Audit Report section entitled "Conditions, Recommendations and Auditee Response."

Management Decision

Upon researching the issue regarding task assignnment and contract limitations, FAB submits the following corrective action has taken place.

1. Initial contract limitations were made on estimated workloads and billings, and expenditures of program funds as a whole were controlled. Reallocations of funds have been made, and contract limitations have been adjusted, in whole and by task assignment, to reflect revised projected workloads and bills, and actual workload and invoices to date. Individual task assignments, expenditures and contract limits are being controlled by new procedures for tracking expenditures on a monthly basis, in addition to monitoring total program funds.

2. DFO has reviewed all terminated Southwest Plan monitoring contracts and determined that no contracts other than the Coastal contract for Equity and Chisholm were terminated with deficits in funding of task assignments.

cc: Stanley J. Poling
Mary A. Creedon

ATTACHMENT C3

SUMMARY AUDIT REPORT

OFFICIAL AUDIT RELEASE

June 29, 1990

MEMORANDUM TO: Board of Directors
Audit Committee

FROM: Robert D. Hoffman
Inspector General

SUBJECT: South Texas Savings Association
Assistance Agreement, Case Number C-116c

As part of our responsibility for providing independent audits for the Board of Directors, the Savings Liquidation Financial Audit Branch, under the management of Marilyn Rother Kraus, has completed an audit of the financial assistance agreement dated as of July 9, 1981 entered into by the FSLIC with South Texas Savings Association (South Texas). Under the terms of the Agreement, South Texas has received $1.1 million representing the assistance payments for the period July 9, 1981 through September 30, 1986. This audit was performed by Coopers & Lybrand and was begun on October 24, 1988 under the direction of the OIG for the former Federal Home Loan Bank Board.

SCOPE AND OBJECTIVES

The scope and objectives of this audit consisted of:

- a review of the accounting records supporting the quarterly reports made to FSLIC under the Assistance Agreement for the period July 9, 1981 through September 30, 1986. The audit objective was to obtain assurance that the quarterly reports submitted by South Texas were adequately supported by documentation.

- a review of the system of internal accounting controls of South Texas as it relates to the account through which assistance transactions were processed. The audit objective

- a review of South Texas' compliance with the provisions of the Agreement relating to its accounting for losses and assets subject to FSLIC coverage. The audit objective was to determine whether South Texas complied with the provisions of the Assistance Agreement.

CONCLUSIONS

The conclusions of this audit are presented below.

Review of Accounting Records - The quarterly reports submitted by South Texas for the period July 9, 1981 through September 30, 1986 were adequately supported by documentation.

Review of Internal Controls - South Texas' internal controls over the Special Reserve Account were adequate.

Compliance with Agreement Provisions - South Texas did not comply with the provisions of the Agreement in several instances. The audit disclosed a miscalculation of the book value of an asset and a miscalculation of loss on sale of an asset. The two errors resulted in assistance overpayments of $570 and $1000. Additionally, the audit disclosed that South Texas did not use the net operating loss carryforward (NOLs) tax benefits of the acquired association or credit the Special Reserve Account for any tax benefits received pertaining to Section 2(e)(7) of the Agreement. Had South Texas used the NOLs to maximize tax benefits to the FSLIC as required, FSLIC assistance would have been reduced by $20,869.

REPORT RECOMMENDATION

The Financial Assistance Division, FSLIC, concurred with the draft of this report. The FDIC should seek recovery of the $22,439 overpayment of assistance.

EXECUTIVE ACTION REQUIRED

No action is required by the Audit Committee or Board of Directors.

Attachments

ATTACHMENT C4

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

REPORT ON AGREED-UPON PROCEDURES

SOUTH TEXAS SAVINGS ASSOCIATION
VICTORIA, TEXAS

for the period July 9, 1981 through September 30, 1986

Coopers
&Lybrand

To the Federal Savings and Loan
Insurance Corporation:

At your request, we have performed the procedures enumerated in the "Scope of Procedures" section of this report with respect to the accounting records supporting the quarterly reports made to the Federal Savings and Loan Insurance Corporation (FSLIC) under the Assistance Agreement (Agreement) dated July 9, 1981 between FSLIC and South Texas Savings Association, Victoria, Texas (South Texas). Our procedures covered the contract period from July 9, 1981 through September 30, 1986.

The purpose of our procedures was to test compliance with the provisions of the Agreement relating to South Texas' accounting for losses and assets subject to FSLIC coverage and, therefore, is not designed and cannot be relied upon to disclose defalcations or other similar irregularities. Our review was made solely to assist you in evaluating compliance with the Agreement and our report is not to be used for any other purpose.

The detail procedures performed, the extent of tests performed and our findings are summarized in the attached pages.

Because the procedures performed do not constitute an audit made in accordance with generally accepted auditing standards, we do not express an opinion on the activity in the Special Reserve Account for the period July 9, 1981 through September 30, 1986. In connection with the procedures referred to above, nothing came to our attention that caused us to believe South Texas was not complying with the Agreement with respect to accounting matters, except for the effect of the matters noted in the "Scope of Procedures" and "Summary of Adjustments" sections of this report.

Had we performed additional procedures or had we made an audit in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you. This report relates only to the Special Reserve Account and items specified herein and does not extend to any financial statements of South Texas or any other entity, taken as a whole.

Coopers & Lybrand

Austin, Texas
March 24, 1989

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION
SOUTH TEXAS SAVINGS ASSOCIATION
ANALYSIS OF THE SPECIAL RESERVE ACCOUNT
for the period July 9, 1981 through September 30, 1986

The following summarizes the activity in the Special Reserve Account for the period July 9, 1981 through September 30, 1986 recorded in South Texas' general ledger:

Charges to the Special Reserve Account:	
Write-down of assets	$394,122
Loss on sale of assets	15,041
Professional fees	8,653
Litigation related to covered assets	20,000
Other debits	118,407
Reclaim of previous suspended items	2,350
South Texas Savings' payments to FSLIC	2,899
	561,472
Credits to the Special Reserve Account:	
Recovery of asset write-downs	588
Other credits	12,291
Subsidy payments received from FSLIC	215,179
	228,058
Balance due South Texas at September 30, 1986	$333,414*

* The FSLIC remitted payment of balance due South Texas by wire transfer on June 2, 1987.

SUMMARY OF ADJUSTMENTS

The results of our procedures related to the accounting records supporting the quarterly reports made to FSLIC and compliance with the provisions of the Agreement are summarized as follows.

	Debit (Credit)
During March 1982, South Texas sold REO property #223 which was foreclosed in January 1982. South Texas included $570.20 of interest in calculating book value, which is not in accordance with Sections 1(f)(3)(B) and 2(e)(1) of the Assistance Agreement.	$ (570.20)
During 1983, South Texas sold REO property #220. Per our review of the accounting records and supporting documentation, we noted that the calculation of loss on the sale was based on the amount due to seller per the settlement statement at closing, and excluded a $1,000 down payment which the buyer had paid at the time he signed the earnest money contract.	(1,000.00)
Total adjustments (reduction in balance due South Texas at September 30, 1986).	$(1,570.20)

Notes: Other matters whose effect has not been dollarized are included in the Scope of Procedures section of this report as follows: D.1.(b), D.2 and H.2.

A copy of the response from South Texas regarding the aforementioned adjustments is attached as Exhibit A. Notwithstanding this response, we believe our comments continue to be valid.

SCOPE OF PROCEDURES

B. General

1. We read the provisions of the Assistance Agreement between the FSLIC and South Texas.

2. We obtained an understanding of South Texas' procedures for compiling quarterly claim reports submitted to the FSLIC and surveyed the related accounting procedures.

3. We inspected South Texas' accounting records supporting the quarterly reports made to the FSLIC under the Agreement during the period July 9, 1981 through September 30, 1986.

4. We reviewed South Texas' independent auditors' workpapers relating to their examination of debits and credits to the Special Reserve Account, including the independent auditors' review of the systems of internal control.

5. We inquired of management regarding South Texas' internal controls over the Special Reserve Account. Management believes that the limited internal controls, specifically over the Special Reserve Account, consisting of a quarterly reconciliation of the Special Reserve Account balance to the quarterly reports submitted to the FSLIC as well as management's review of the quarterly reports, are adequate due to the limited activity in the Special Reserve Account.

C. Quarterly Reports to the FSLIC by South Texas of Debits and Credits to the Special Reserve Account:

1. We obtained twelve quarterly reports from the FSLIC and eight quarterly reports from South Texas Savings. These reports and the supporting detail schedules were verified for mathematical accuracy on a test basis. All debits and credits reflected on the quarterly reports were traced to South Texas' subsidiary accounting records which, in turn, are reconciled monthly to the general ledger. Documents supporting these debits and credits were examined on a test basis, including evidence of the FSLIC advance approval where required.

2. For the quarterly reports ended September 30, 1983 and June 30, 1985, we traced all debit and credit items as reported on these two quarterly reports to supporting documentation to ensure the reports were adequately documented, and the amounts claimed by South Texas and paid by the FSLIC during these two periods were in accordance with the Assistance Agreement.

3. We analyzed the general ledger accounts of South Texas Savings, including those related to income and expenses, to the extent judged appropriate, to test whether income, recoveries or unrecorded assets have been taken into South Texas Savings' income without proper credit to the Special Reserve Account. No items were noted that should have been credited to the Special Reserve Account except for those included in the Summary of Adjustments section of this report.

D. Losses and Gains on Liquidation of Assets; Recoveries of Claims; Write-Downs of Assets:

1. For each liquidated covered asset as identified by charges and credits to the Special Reserve Account we performed the following:

a. Traced the book value of the property at date of sale to the subsidiary accounting records, reviewed the debits and credits made to the asset account and directly related accounts from the date of acquisition to date of sale, recomputed the gain/loss and agreed resultant amounts to appropriate credits/charges in the Special Reserve Account. Except for the items included in the Summary of Adjustments section of this report, no items were found that were in noncompliance with the provisions of the Assistance Agreement, including the propriety of accounting, reasonableness of capitalized items and approval of changes.

b. South Texas was unable to locate written waivers of right of first refusal by the FSLIC; however, we inspected authorization by the FSLIC regarding each liquidation and related amounts.

c. Compared the net proceeds, expense of sale and prorated expenses to closing statement and other appropriate supporting records.

d. We noted no liquidation of a participating interest.

e. Determined that each liquidated property for which an entry was made to the Special Reserve Account was a covered asset or was specifically approved by the FSLIC.

f. Reviewed reductions to book value for purposes of computing the loss charged to the Special Reserve Account to ensure applicable credit balances related to the assets were considered, including escrow balances and unapplied receipts. We noted no instances of deferred credits such as discounts on mobile home loans or loans in process related to these assets.

g. In conjunction with write-down requests on home improvement loans, we recalculated interest per Rule of 78's and reviewed documentation regarding book value of these loans noting no instances of noncompliance with the Assistance Agreement. Additionally, we agreed related Special Reserve Account debits to authorizations by the FSLIC.

2. Relating to write-downs of assets, we traced losses charged to the Special Reserve Account to authorizations by the FSLIC. Additionally, we agreed the authorized write-downs to the appropriate accounting records. In performing this procedure we noted no authorization from FSLIC was received for the write-down of certain properties in the amount of $108,151.25. These properties were reserved in the amount of $108,151.25 prior to the effective date, July 9, 1981. Per letter dated October 19, 1981 from the FHLB to the audit firm of Bumgardner, Morrison & Company, the initial contribution by the FSLIC disallowed all reserves for loan losses and uncollected interest.

Per Section 2 of the Assistance Agreement, South Texas may debit the Special Reserve Account upon liquidation of the assets or by write-down, for which authorization must be received from the FSLIC. Per discussion with management of South Texas, no authorization by the FSLIC was received as the reserves were included in the acquisition audited financial statements as of July 9, 1981. We noted that the detail for this credit to the Special Reserve Account was included in the September 30, 1982 quarterly report to the FSLIC.

E. Subsidy of Federal Home Loan Bank Advances:

1. We reviewed the records of advance activity, including new advances obtained since July 9, 1981 and repayments of

advances and related interest costs. No prepayment penalties were incurred on covered advances or charged to the Special Reserve Account.

2. In addition, we inspected the Agreement between the FSLIC and South Texas concerning a $3,000,000 advance in which the FSLIC agreed to pay an interest differential amounting to 6.8% directly to the Federal Home Loan Bank. South Texas did not account for this subsidy charge in their Special Reserve Account as the Agreement was solely between the FSLIC and the FHLB. No other FHLB advances were eligible for subsidy payments.

F. Professional Legal Fees:

1. We examined supporting documentation for charges to the Special Reserve Account regarding legal fees incurred relative to certain litigation, on a test basis, to determine that the charges were in accordance with the Assistance Agreement.

G. Indemnification for Undisclosed Liabilities:

We examined the supporting documentation of charges to the Special Reserve Account made under Section 2(c)(2) of the Assistance Agreement for indemnification of certain undisclosed liabilities, claims against First Financial Federal Savings and Loan Association (First) or South Texas as its successor and related litigation for propriety of such charges.

H. Tax Review:

1. We reviewed South Texas' tax returns for the years ended September 30, 1981 through September 30, 1986 and the final return of First to ascertain if any tax benefits were claimed that were creditable to the Special Reserve Account. South Texas Savings did not credit the Special Reserve Account for any tax benefits during the period July 9, 1981 through September 30, 1986.

2. We discussed with management their strategy to maximize tax benefits which would benefit the FSLIC, and reviewed the aforementioned returns to ascertain whether South Texas had fulfilled their obligations under Section 8(c) of the Assistance Agreement. Per our review of the final return of First for the period ended July 9, 1981, we noted that First had net operating loss (NOL) carryforward of $1,016,371. We further noted that South Texas had taxable income of $85,673, $497,703, $354,287 and $409,354 during the years ended September 30, 1981, 1983, 1984 and 1985, respectively. As these returns did not indicate any available operating loss carryforwards to offset taxable income, we assume the taxable loss incurred during 1982 of $906,361 was carried back to years prior to 1982 and a refund received accordingly. Per our review of the tax code applicable during this time period, South Texas should have been able to utilize a portion of First's NOL to reduce taxable income during the aforementioned years, thereby resulting in tax benefits which would have been credited to the Special Reserve Account per Section 2(e)(7)(A).

Per discussions with South Texas' management, they were not aware that they could utilize First's NOL carryforward to offset South Texas' taxable income during subsequent periods.

Based on our review of First's final return and appropriate tax literature in effect during the indicated periods, a schedule reflecting origination and expiration of NOL's generated by First, and estimated amounts available for use by South Texas subject to tax code Section §382 limitations, is provided as follows:

Year NOL Generated	Year of Expiration	Amount Generated	Carryforward to South Texas	Available After §382 Limit
12/31/75	12/31/80	$ 98,959		
12/31/76	7/10/81	47,854		
12/31/77	9/30/81	5,168	$ 5,168	$ 517
12/31/78	9/30/82	108,070	108,070	10,807
12/31/79	6/30/83	229,698	229,698	22,970
12/31/80	6/30/84	342,728	342,728	34,273
7/10/81	6/30/85	183,894	183,894	18,389
Total		$1,016,371	$869,558	$86,956

Based on the above schedule and appropriate Federal Income Tax returns, refunds available to South Texas from from First's NOLs should have been an estimated $20,368 and $501 for the taxable periods ended September 30, 1981 and June 30, 1983, respectively. The FDIC would also be entitled to a credit to the Special Reserve Account for tax benefits received as a result of any assistance received in accordance with Section 2(e)(7) of the Agreement.

I. Other Procedures:

1. Letters were obtained directly from South Texas' attorneys describing outstanding claims and litigation arising from

ATTACHMENT C5

EXHIBITS -- LETTERS FROM SOUTH TEXAS' ATTORNEYS

LETTER FROM JAMES E. BLAIR, VICTORIA, TX

April 19, 1989

Coopers Lybrand
1800 One American Ctr
600 Congress Ave
Austin, Texas 78701

Dear Sirs,

We have reviewed the draft to the Federal Savings and Loan Insurance Corporation with respect to the Assistance Agreement between FSLIC and South Texas Savings and have only the following comments concerning the summary of adjustments:

> REO property #222 was sold to the individual from whom it had been foreclosed on in January, 1988, under the condition that he pay the interest that would have been due had the loan remained on the books as an active loan. The selling price was book value plus interest due from the last payment date since the property was being sold to the same individual. The interest was not included as book value which is in accordance with the Assistance Agreement and when received was credited to mortgage loans interest as mortgage loan interest had been debited when the loan was transferred to REO.
>
> The $1,000 downpayment on REO property #220 was collected by First Financial prior to the merger and the sale was being litigated by the buyer at the time of the merger. The loan closing was completed by the outside attorney handling the litigation and South Texas received the proceeds check from said attorney. At the time of the closing the $1,000 downpayment was not on the books of South Texas Savings.

We are in agreement with the draft except for the items mentioned above.

Sincerely,

James E. Blair

James E. Blair

LETTER FROM HOWARD C. LEE, JR., HOUSTON, TX

October 28, 1988

Coopers & Lybrand
1800 One American Center
600 Congress
Austin, Texas 78701

Re: South Texas Savings & Loan Association

Gentlemen:

As far as we are able to determine, the only matter this firm ever handled for South Texas Savings was a lawsuit which was disposed of favorably to the Association in 1983. South Texas Savings was involved in the litigation as successor to First Financial Federal Savings & Loan Association of Houston.

Therefore, we are unable to further respond to the inquiries of the Association's letter to us of October 25, 1988.

Yours truly,

Howard C. Lee

HOWARD C. LEE, JR.

HCLjr:dkb

cc: Mr. James E. Blair
South Texas Savings & Loan Association
P. O. Box 2118
Victoria, Texas 77902

LETTER FROM HOWARD C. LEE, JR., HOUSTON, TX

December 7, 1988

Coopers & Lybrand
1800 One American Center
600 Congress
Austin, Texas 78701

Re: South Texas Savings & Loan
Association

Gentlemen:

Supplementing my letter of October 28, this law firm defended South Texas Savings & Loan Association as the successor to First Financial Federal Savings & Loan Association of Houston in a case styled Lanny Blain Robinson vs. John R. Evans and First Financial Federal Savings & Loan Association, being Cause No. 78-30859, in the 190th District Court in Houston. This case went to judgment September 24, 1980, in favor of all defendants. The case was appealed to the Court of Appeals in Tyler and affirmed by the Court of Civil Appeals For the Fourteenth Supreme Judicial District in April, 1983.

The judgment was a take nothing judgment against the plaintiffs and in favor of all defendants, and did not result in the payment of any sums of money to First Financial Federal.

This is the only matter that we are aware of in which we represented South Texas Savings.

I trust this answers your recent inquiry.

Yours truly,

Howard C. Lee

HOWARD C. LEE, JR.

LETTER FROM WILLIAM S. FLY, VICTORIA, TX

November 30, 1988

Coopers & Lybrand
600 Congress Avenue
1800 One American Center
Austin, Texas 78701-9976

Re: South Texas Savings Association,
Examination 9-30-86 to Present

Gentlemen:

In connection with the examination of the Assistance Agreement between the Federal Savings and Loan Insurance Corporation (FSLIC) and South Texas Savings and Loan Association, Victoria, Texas, you are advised as follows:

PENDING OR THREATENED LITIGATION CLAIMS AND ASSESSMENT (EXCLUDING UNASSERTED CLAIMS AND ASSESSMENTS):

None.

UNASSERTED CLAIMS AND ASSESSMENTS:

None.

We confirm your understanding that whenever, in the course of performing legal services for South Texas Savings with respect to a matter recognized to involve an unasserted possible claim or assessment which may call for financial statement disclosure, if we have formed a professional conclusion that South Texas Savings should disclose or consider disclosing such a possible claim or assessment, as a matter of professional responsibility to South Texas Savings, that we will advise South Texas Savings and will consult with South Texas Savings concerning the question of such disclosure and of the applicable requirements of Financial Accounting Standards Board Statement No. 5.

There are no unasserted possible claims of which we have been advised by South Texas Savings are probably of as-

LIMITATIONS OF RESPONSE:

None.

OTHER MATTER:

We have settled no material litigation, claims and assessments relating to the association since 9-30-86.

There are no amounts owed and accrued (billed and unbilled) to us for legal services and expenses at 9-30-86.

Yours very truly,

W. S. Fly

SUMMARY AUDIT REPORT

OFFICIAL AUDIT RELEASE

March 15, 1991

MEMORANDUM TO: Board of Directors
Audit Committee

FROM: Robert D. Hoffman
Inspector General

SUBJECT: Franklin Federal Bancorp, Federal Savings Bank Assistance Agreement, Case Number SWP-016c

As part of our responsibility for providing independent audits for the Board of Directors, the Savings Liquidation Financial Audit Branch, under the management of Marilyn Rother Kraus, has completed an audit of the financial assistance agreement dated September 30, 1988, entered into by the FSLIC with Franklin Federal Bancorp, Federal Savings Bank (Franklin) of Dallas, Texas. The audit of assistance payments totalling $130.3 million was performed by Arthur Andersen under the direction of the OIG and was begun on September 4, 1990.

SCOPE AND OBJECTIVES

The scope and objectives of this audit were to review:

- accounting records supporting the quarterly reports made to FSLIC under the assistance agreement for the period September 30, 1988, through December 31, 1989. The audit objective was to obtain assurance that the quarterly reports submitted by Franklin were adequately supported by documentation.
- the system of internal accounting controls of Franklin as it relates to the accounts through which assistance transactions were processed. The audit objective was to determine if Franklin's internal controls relating to the Special Reserve Accounts were adequate.
- compliance with the provisions of the agreement relating to Franklin's accounting for losses and assets subject to FSLIC coverage. The audit objective was to determine whether Franklin complied with the provisions of the assistance agreement.

CONCLUSIONS

The conclusions of this audit are presented below.

- Review of Accounting Records - The quarterly reports submitted by Franklin for the period September 30, 1988, through December 31, 1989, were adequately supported by documentation.
- Review of Internal Controls - Three weaknesses in internal controls were found. Franklin's accounting department did not receive operating statements from management companies whose services were terminated. As a result, actual yield/loss was not recorded promptly. Secondly, controls were not in place to ensure that expenses were properly classified as either capital expenditures or other expense items. As a result, budgeted expense amounts were exceeded. Lastly, actual yield/loss amounts posted to the Special Reserve Accounts were not reconciled to the general ledger.

As a result, there was no assurance that accurate actual yield/loss amounts were included in the quarterly reports. These internal control weaknesses had no monetary effect on the Special Reserve Account for the audit period, however, Franklin has agreed to implement measures to strengthen internal controls.

- Compliance with Agreement Provisions - Three instances of noncompliance with the assistance agreement were found. Prior to October 1989, Franklin did not report income and expenses for one of Franklin's subsidiaries. Income of $11,572 was not reported for this period. Secondly, accrued interest was improperly credited to the Special Reserve Account. Finally, Franklin improperly classified certain loans as covered assets. The guaranteed yield paid on these loans totalled $14,226. Franklin has agreed to take corrective action on all noncompliance findings.

REPORT RECOMMENDATION

The Division of FSLIC Operations concurred with the draft of this report and stated the intention to recover the $25,798 overpayment of assistance.

EXECUTIVE ACTION REQUIRED

No action on the report is required by the Audit Committee or Board of Directors.

Attachments

Feb 28 1991

February 21, 1991

MEMORANDUM TO: Everett Cook, Case Manager
Division of FSLIC Operations

Jim Weaver, ~~Assistant~~ Regional Manager
Division of FSLIC Operations

THRU: Robert Waller, Acting Senior Lead Accountant
Division of FSLIC Operations

FROM: David H. Loewenstein David H. Loewenstein
Assistant Inspector General

SUBJECT: Concurrence with Compliance Audit Report for
Franklin Federal Bancorp, F.S.B.

Before we issue the final compliance audit report for Franklin Federal Bancorp, please indicate your concurrence with the recommendations found below which relate to the monetary conditions found in the attached report, and return this form to the OIG by March 7, 1991.

1. ITEM 1a: Recommended Credit to Actual Yield = $11,572 ok
2. ITEM 1c: Recommended Credit to Guaranteed Yield = $14,226

James A. Weaver
Jim Weaver, Regional Manager
3/1/91
Date

Concurrence:
Everett Cook
Case Manager

Terry M. Mey
Assistant Regional Manager

FRANKLIN FEDERAL BANKCORP, FSB

SCHEDULE OF DEBITS AND CREDITS TO THE SPECIAL RESERVE ACCOUNT FOR THE PERIOD FROM SEPTEMBER 30, 1988 THROUGH DECEMBER 31, 1989

TOGETHER WITH AUDITORS' REPORT

Because the provisions of the Agreement pertaining to the Special Reserve Accounts do not require Franklin to comply with any laws or regulations, the scope of our review of internal controls did not include tests of either compliance or noncompliance with laws and regulations. Our review of internal controls included tests of controls over transactions processed through the Special Reserve Accounts. These tests were not designed to evaluate Franklin's internal control structure as a whole.

Our objectives were to determine whether the quarterly claim reports Franklin submitted to the FSLIC and the FDIC were adequately supported by documentation, whether internal controls over the Special Reserve Accounts were adequate to ensure compliance with the Agreement, and whether Franklin complied with the provisions of the Agreement relating to maintenance of the Special Reserve Accounts. Our work was performed in accordance with generally accepted auditing standards and with Government Auditing Standards ("GAO Standards"), as promulgated by the Comptroller General of the United States.

Our opinions on the Schedule of Debits and Credits to the Special Reserve Accounts and the related system of internal controls, in conformity with the GAO Standards, are contained below in the Independent Auditors' Report on the Special Reserve Accounts and the Independent Auditors' Report on Internal Controls.

AUDIT PROCEDURES

Our audit included the required procedures provided by the Office of Inspector General, as contained in Appendix I, and additional procedures we considered necessary in the circumstances. The preliminary audit results were discussed in November 1990 with Mike Cook, Controller.

Arthur Andersen & Co.

FRANKLIN FEDERAL BANCORP, FSB

CONDITIONS, PROPOSED ADJUSTMENTS, RECOMMENDATIONS, AND AUDITEE RESPONSES

FOR THE PERIOD FROM SEPTEMBER 30, 1988, THROUGH DECEMBER 31, 1989

	Applicable Sections of the Agreement	Potential Adjustment Dr (Cr)
1. Noncompliance with the Assistance Agreement		
a. Condition: One of Franklin's subsidiaries, LS Venture, did not report income and expenses on Franklin's general ledger prior to October 1989. Income of $11,572 was not reported during this period as actual yield.	Sections 1.d. and 3.d.1	$ (11,572)
Recommendation: We recommend that the SRA be credited $11,572.		
Auditee's Response: Management concurs.		
b. Condition: Franklin continued to accrue interest on nonperforming loans from September 30, 1988, through December 31, 1988. This accrued interest earned guaranteed yield through December 31, 1989. Because Franklin was on an accrual basis, actual yield was also being automatically credited to the SRA even though no cash payments were being received on the nonperforming loans. FDIC and Franklin agreed that the guaranteed yield received on the accrued interest sufficiently offset the actual yield credited, and decided not to adjust the guaranteed yield. The accrued interest was not written-off until March 31, 1990, which was outside the scope of our audit.	Sections 1.d. and 3.a.6	None
Recommendation: We recommend that the write-off of all accrued but uncollected interest from September 30, 1988, through December 31, 1989, be included in the scope of the next FDIC compliance audit.		
Auditee's response: Management concurs.		

Applicable Sections of the Agreement	Potential Adjustment Dr (Cr)
Section i.n.3.B	$(14,226)

c. Condition: Per the Assistance Agreement, covered assets exclude any one-to-four family residential mortgage loan that is performing on the effective date according to its original terms. Based on Franklin's interpretation of this section of the Agreement, the following loans were considered covered as of the effective date:

- One-to-four family residential mortgage loans one or more days delinquent on the effective date.
- One-to-four family residential mortgage loans which were at one time restructured, as such loans are not performing according to their original terms.
- One-to-four family residential loans with balloon payments, as they do not amortize evenly over the life of the loan and are, therefore, by definition, not a mortgage loan.

Based on discussions with Ralph Stanley, FDIC, only one-to-four family residential mortgage loans greater than 90 days delinquent should be considered covered. Additionally, restructured and balloon payment mortgage loans should not be considered covered based on such characteristics alone, i.e., such loans must also be greater than 90 days delinquent. However, because the Agreement is not specific in regard to what constitutes "performing according to its original terms," Mr. Stanley advised Franklin to analyze the covered mortgage loans as of September 30, 1990, and retroactively adjust guaranteed yield reimbursement for all covered mortgage loans current or less than 90 days contractually delinquent at that date.

Additionally, according to DFO, an opinion was released on October 18, 1990, from the Senior Counsel for TAAOS stating that covered asset status for one-to-four family residential mortgage loans begins on the ninety-first day of delinquency. Of the 35 one-to-four family residential mortgage loans selected for testing, the following were less than 90 days delinquent and were included in covered assets:

3103267
3301689
3470
21-0002581
3300837
7900145
7900376
3301616
3302813
9512461
21-002550
4800007
3300974

Applicable Sections of the Agreement	Potential Adjustment Dr (Cr)
Section 1.a.3.3	$(14,226)

Note that all but one were properly included in covered assets based on Franklin's interpretation outlined above.

Recommendation: A final determination regarding the interpretation of this section of the Agreement needs to be reached and Franklin's guaranteed yield retroactively adjusted, as appropriate, as of September 30, 1990. The net guaranteed yield on the above loans was $14,226. We would like to emphasize, however, that this adjustment relates only to loans selected in our sample for testing. The necessary data to quantify the potential adjustment on the entire portfolio is not readily available and would take considerable time to quantify.

Auditee's response: Management believes that these loans were properly covered assets as of the effective date, based on their interpretation of the assistance agreement.

2. Weaknesses in Internal Controls

Applicable Sections of the Agreement	Potential Adjustment Dr (Cr)
Sections 1.d, 3.c.2, and 3.d.1	None

a. Condition: Based on discussions with management during our testing of actual yield on REO properties, we became aware of several instances where REO accounting did not receive an operating statement from management companies whose services were terminated during such month. In such instances, the actual yield/loss was not recorded until the operating statement was eventually received.

Recommendation: Franklin should establish procedures to ensure that all property management company operating statements are received on a timely basis.

Auditee's response: Management recognized this problem during the first year after the effective date (September 30, 1988). A status report is currently prepared by the Franklin Covered Asset Reporting staff which lists all management company reports which should be received each month. This status report shows when and if statements are received, as well as when and if cash is received on each property under the management of third parties. This report is reviewed by accounting management and circulated to all asset managers for review. Any delinquent reports are given special attention.

	Applicable Sections of the Agreement	Potential Adjustment Dr (Cr)
b. Condition: During our testing of actual yield/loss on REO properties, we noted that expenses on certain properties exceeded the budgeted amounts for expenses. However, based on further investigation, we noted that asset managers were budgeting for certain repairs as capital expenditures, as opposed to properly treating such repairs as expense items. Although the asset managers budgeted certain items as capital expenditures, REO accounting properly expensed such items, thereby exceeding the budgeted expense amounts. However, in the aggregate, expenses incurred were within approved limits. Recommendation: We recommend that Franklin establish formal capitalization policies and procedures. Additionally, the REO accounting manager should be involved with the asset manager in the initial budget approval process in determining capital/expense items. Auditee's response: Management concurs with this observation and has taken steps to involve the internal accounting team, as well as the property management accounting staff in determining the propriety of classification of expenses. In addition, an account has been opened in the chart of accounts entitled deferred maintenance. While this account is, in fact, an expense account, it is to be used for extraordinary repairs which are necessitated by poor maintenance of the project by previous ownership.	Sections 12.c, 13.c, and 14.b	None
c. Condition: Franklin does not reconcile total actual yield/loss on REO properties per the billing to the applicable accounts in the general ledger. Although we found no exceptions in agreeing actual yield/loss per the billing to the general ledger on a property by property basis for a sample of REO properties, a reconciliation in total will help ensure that accurate actual yield/loss amounts for all covered REO are properly included in the billing and will serve as an additional control technique. Recommendation: We recommend that Franklin perform a reconciliation of actual yield/loss from the quarterly billing to the general ledger. Auditee's response: Management recognized this problem and in January 1990 established and implemented procedures to perform such a reconciliation on a monthly basis.	Sections 1.d, 3.c.2, and 3.d.1	None

ARTHUR ANDERSEN & CO.
DALLAS, TEXAS

REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS ON THE SPECIAL RESERVE ACCOUNTS

To the Federal Deposit Insurance Corporation
Office of the Inspector General:

We have audited the accompanying Schedule of Debits and Credits to the Special Reserve Accounts of Franklin Federal Bancorp, FSB ("Franklin") attached as Appendix II, for the period from September 30, 1988, through December 31, 1989. This schedule is the responsibility of Franklin's management. Our responsibility is to express an opinion on this schedule based on our audit.

Except as discussed in the following three paragraphs, we conducted our audit in accordance with generally accepted auditing standards and the Government Auditing Standards, as issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Schedule of Debits and Credits to the Special Reserve Accounts is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. In addition, we performed certain audit procedures specifically required by the Federal Deposit Insurance Corporation Office of the Inspector General. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 2, the Schedule of Debits and Credits to the Special Reserve Accounts was prepared in conformity with the requirements of the Assistance Agreement dated September 30, 1988, between Franklin and the Federal Savings and Loan Insurance Corporation and is not intended to be a presentation in conformity with generally accepted accounting principles.

We were unable to obtain letters from Franklin's attorneys describing any outstanding claims and litigation arising from acquisition of the assets and liabilities as described in Attachment I of the Task Assignment (see Exhibit I).

We were unable to examine a reconciliation of Franklin's initial audit to the covered asset listing as of September 30, 1988.

In our opinion, except for the effects, if any, of such adjustments or matters that might have been disclosed had the written representations and reconciliations referred to above been furnished to us by management, the schedule referred to above presents fairly, in all material respects, the debits and credits to the Special Reserve Accounts in conformity with the requirements of the Assistance Agreement dated September 30, 1988, between Franklin and the Federal Savings and Loan Insurance Corporation for the period from September 30, 1988, through December 31, 1989, on the basis of accounting described in Note 2.

This report is intended solely for the use of the Federal Deposit Insurance Corporation Office of the Inspector General and Federal Deposit Insurance Corporation management and should not be used for any other purpose.

Arthur Andersen & Co.

Dallas, Texas,
November 13, 1990

FRANKLIN FEDERAL BANCORP, FSB

NOTES TO SCHEDULE OF DEBITS AND CREDITS TO THE SPECIAL RESERVE ACCOUNTS

FOR THE PERIOD FROM SEPTEMBER 30, 1988, THROUGH DECEMBER 31, 1989

1. ORGANIZATION:

Franklin Federal Bancorp, FSB ("Franklin") was formed on September 30, 1988, as a federal stock savings bank under terms of agreements among the Federal Savings and Loan Insurance Corporation ("FSLIC"), Franklin, Club Corporation, International ("Club Corp"), and First Federal Financial Corporation, a wholly owned subsidiary of Club Corp. Franklin acquired substantially all of the assets and assumed certain liabilities of Franklin Savings Association, Credit Bank Savings Association, and Great West Savings Banc ("Closed Associations") from the FSLIC as Receiver, pursuant to three similar acquisition agreements and an assistance agreement ("Agreement").

On August 9, 1989, Congress passed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 which abolished the FSLIC and established the FSLIC Resolution Fund ("Fund") to assume all reserves, assets, debts, obligations, and other liabilities of the FSLIC. The Fund is managed by the Federal Deposit Insurance Corporation ("FDIC"). All subsequent references to the Fund include previous agreements with the FSLIC.

2. ASSISTANCE AGREEMENT:

Key provisions of the Agreement include the following:

> All assets acquired from the Closed Associations, except cash, marketable securities, performing one-to-four family residential mortgage loans, individual assets of any subsidiary of the Closed Associations, and office buildings, furniture, fixtures, and equipment in use by Franklin on September 30, 1989, are guaranteed by the Fund as "Covered Assets." The Fund will pay Franklin, in cash or additional notes, any shortfall between the sales or liquidation proceeds of Covered Assets and their book values. The initial book values of the Covered Assets are equal to the recorded values of the assets on the books of the Closed Associations at September 30, 1988, excluding valuation allowances.
>
> The Fund will supplement the actual yield from Covered Assets (including reimbursement for operating losses from real estate and subsidiaries and for direct external costs related to the collection of Covered Assets) as necessary for Franklin to achieve a "Guaranteed Yield" equal to the Texas Cost of Funds, plus a designated spread, as defined in the Agreement. The Fund will indemnify Franklin for amounts paid and costs incurred to defend against claims relating to unassumed liabilities and claims, environmental liabilities, and challenges to the formation transactions.

The Fund may require Franklin to sell Covered Assets to any person or entity the Fund designates, including the Fund, at a price equal to fair market value through September 30, 1998. Upon the liquidation of any Covered Asset, gain or loss will be computed according to an agreed-upon formula as defined in the Agreement.

The Fund will reimburse Franklin for a portion of the goodwill arising in the acquisition, as defined in the Agreement, over 10 years.

Amounts receivable from the Fund will be reduced for a portion of federal income tax benefits realized in the consolidated tax return of Club Corp arising from the tax-exempt status of the Fund assistance and net operating losses carried forward from the Closed Associations.

In accordance with the Agreement, amounts reimbursable by the Fund are accounted for and reported to the Fund quarterly. As such, the Schedule of Debits and Credits to the Special Reserve Accounts represents debits and credits submitted during the period from September 30, 1988, through December 31, 1989, and is not intended to be a presentation in conformity with generally accepted accounting principles.

REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS ON INTERNAL CONTROLS

To the Federal Deposit Insurance Corporation
Office of the Inspector General:

We have audited the Schedule of Debits and Credits to the Special Reserve Accounts (the "Schedule") of Franklin Federal Bancorp, FSB ("Franklin") attached as Appendix II, for the period from September 30, 1988, through December 31, 1989, and have issued our report thereon dated November 13, 1990.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, as issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule is free of material misstatement.

In planning and performing our audit of the Schedule of Franklin, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the schedule and not to provide assurance on the internal control structure.

The management of Franklin is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial information in conformity with the requirements of the Assistance Agreement dated September 30, 1988, between Franklin and the FSLIC. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this report, we have classified the significant internal control structure policies and procedures related to the Special Reserve Accounts in the following categories:

- Reporting procedures and responsibilities
- Reconciliation of billing information to source documents
- Cash receipts and disbursements
- EDP

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under generally accepted auditing standards. A material weakness is a condition in which the design or operation of one or more of the internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the Schedule being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

However, we noted certain matters involving the internal control structure and its operation that we have reported to the management of Franklin as indicated in the accompanying Conditions, Proposed Adjustments, Recommendations, and Auditee Responses section of this report.

This report is intended for the information of the Federal Deposit Insurance Corporation Office of the Inspector General and Federal Deposit Insurance Corporation Management.

Arthur Andersen & Co.

Dallas, Texas,
November 13, 1990

Franklin Federal Bancorp, FSB
Required Audit Procedures Performed

Procedures Not Performed

AUDIT PROCEDURES FOR ANALYSIS OF QUARTERLY REPORTS

GENERAL:

- Obtain from the FDIC copies of all quarterly reports received from Franklin Federal for the period September 30, 1988 through December 31, 1989.
- Verify the arithmetical accuracy of the quarterly reports and supporting summary schedules on file at Franklin Federal. Verification may be limited to test checks of footings and extensions on detail schedules where volume does not warrant 100 percent verification.
- Obtain letters from Franklin Federal's attorneys describing any outstanding claims and litigation arising from acquisition of the assets and liabilities. Include attorneys' opinions on contingent liabilities and potential recoveries, and confirm unpaid legal expenses on assets or liabilities covered by the Agreement. (3)

REVIEW OF SPECIAL RESERVE ACCOUNT I

SPECIAL RESERVE ACCOUNT I GENERAL:

- Verify that the "Beginning Balance This Report" on the Quarterly Report Grand Summary is zero. The beginning balance will be zero if FDIC/FSLIC has funded the entire amount of the "Ending Balance This Report" from the previous report. If there is a balance on this line, determine whether one of the following events has occurred:

  FDIC/FSLIC elected not to pay the previous quarter's "Ending Balance This Report", and the balance was rolled over: or,

  FDIC/FSLIC took some exceptions to the previous quarter's SRA I report which have yet to be resolved; and therefore, the entire "Ending Balance This Report" from the previous quarter has not been paid.

SPECIAL RESERVE ACCOUNT I DEBIT ITEMS:

Review the transactions of the quarterly reports submitted. Trace items as reported to supporting documentation using specified procedures. Ensure reports are adequately documented and all amounts claimed by the association and paid by FSLIC are in compliance with the Agreement.

1) "Capital Losses on Covered Assets"

Obtain copies of the Sales Contracts, Closing Statements, Asset Sale Requests, Appraisals (if available), Asset Summaries, and the FDIC/FSLIC Authorizations, (where applicable), and perform the following procedures:

- Determine that the Capital Loss is equal to the excess of Book Value over Net Proceeds Received, as these terms are defined in the Assistance Agreement. (Note: Prorated income and expense items (e.g., rent, taxes, insurance) are not included in Net Proceeds Received, but are included in Actual Loss/Yield);
- Review the calculation of Book Value, obtain the analysis (e.g., Loan history, ledger card, worksheet, etc.) of the asset from the Effective Date to the date of sale and perform the following procedures:

Procedures Not Performed

Agree the book value as of the Effective Date to the Covered Asset Schedules prepared as of the Effective Date. Review the financial statement from the Initial Audit for any changes in the book value; and,

Review changes in book value since the Effective Date and determine appropriateness of changes. Charges should be supported by invoices, cancelled checks, and FDIC/FSLIC Authorizations when applicable;

- Agree Net Proceeds Received per the Closing Statement to the general ledger and to the calculation of Net Proceeds Received as defined by the Assistance Agreement;
- Review the Closing Statement and determine if the sale was financed by the institution or a subsidiary of the institution. If it was, note whether an Asset Sale Request with Financing Terms was submitted for FDIC/FSLIC Authorization;
- Determine whether the Actual Loss is reasonable compared to the estimated loss authorized by FDIC/FSLIC. If the Actual Loss is not reasonable compared to the FDIC/FSLIC Authorization, take exception to the additional unauthorized loss;
- If the disposition is of real estate held for investment purposes, determine that Net Proceeds Received has not been reduced by any secured liabilities as these liabilities are already being reimbursed through the Negative Net Worth Note.
- If the disposition is of foreclosed real estate, determine that the Net Proceeds Received has been reduced by any underlying liens not recorded on the general ledger of the association;
- If the disposition of any Other Covered Asset does not have an FDIC/FSLIC Authorization, determine whether the sale was in compliance with the provisions of Section 14 of the Assistance Agreement, which allows for the disposition of certain Other Covered Assets without the submission of an Asset Sale Request. If the sale was not in compliance with these provisions, take exception;
- Review "Blanket Approvals" to determine if the Blanket Approval is applicable to the asset sold;
- Verify that the book value of the Covered Asset has not been included in the calculation of Guaranteed Yield;
- If the line item listed on the supporting worksheet represents a write-down of a Covered Asset, obtain the FDIC/FSLIC approval letter for the write-down and determine that the write-down is in compliance with the FDIC/FSLIC approval;
- If a participating interest exists, ascertain that only the institution's share of the capital loss has been recorded; and,
- Determine that the unamortized balance of deferred credits or debits (i.e., loan discounts or premium, remaining escrow balances) related to the Covered Asset disposed of has been written off to Actual Loss/Yield.
- Select a sample of assets sold in the previous quarters and verify that the assets have been eliminated from the current quarter's calculation of Guaranteed Yield.

2) "Indemnification"

(2)

Obtain the FDIC/FSLIC approval letter which corresponds to the authorization number on the worksheet and perform the following procedures:

- Verify that the cumulative amount requested to date does not exceed the approved dollar limit;
- Agree information to the general ledger;
- Agree information to the original invoice and/or attorneys' reports, verifying date, payee, amount, and classification; and,
- Agree information to cancelled check, verifying date, payee, and amount.

Procedures Not Performed

3) "Related Claim Expense" (2)

Obtain the FDIC/FSLIC approval letter which corresponds to the authorization number on the worksheet and perform the following procedures:

- Verify that the cumulative amount requested to date does not exceed the approved dollar limit;
- Agree information to the general ledger;
- Agree information to the original invoice verifying date, payee, amount, classification, and that the invoice is in the format prescribed in Section 6 of the Southwest Plan Acquirers' Manual;
- Agree information to cancelled check, verifying date, payee, and amount; and,
- Determine that the item relates to an "Indemnification".

4) "Nonexistent Asset" (2)

Obtain the FDIC/FSLIC approval letter which corresponds to the authorization number on the worksheet, the journal entry, and support for the journal entry and perform the following procedures:

- Review the journal entry and the support and determine that the request is appropriate; and,
- Agree the amount on the worksheet to the amount on the FDIC/FSLIC authorization letter.

5) "Purchased Claim" (2)

Obtain the pre-approved essential list and the FDIC/FSLIC authorization letter for items not on the pre-approved essential list and perform the following procedures:

- Agree information for each line item to the general ledger, invoices, and cancelled checks to determine if the line item is properly categorized;
- Compare line items that are listed as being pre-approved to the pre-approved essential list and determine whether classification as pre-approved is appropriate;
- Compare non-preapproved line items to the respective FDIC/FSLIC authorization letters and determine that the amount of the claim on the worksheet agrees to the amount of the claim in the FDIC/FSLIC authorization letter; and,
- Determine that each of the purchased claims has been excluded from "Actual Loss" or "Actual Yield" on SRA II.
- Determine that items submitted as purchased claims were not also included as secured liabilities in the FDIC's Initial Audit.

6) "Amortization of Goodwill"

Obtain copies of the audited financial statements and the separate report on goodwill, the association's outside accountant's certification and perform the following procedures:

- Determine that this is the quarter in which it is appropriate to claim amortization of goodwill;
- Perform an initial test on the amortization claimed to determine that goodwill is being amortized in accordance with Generally Accepted Accounting Principles (GAAP) and the Agreement;
- Agree information on the worksheet to the audited financial statements (if available), the accountant's certification; and,
- If a write-off of goodwill occurs due to the sale of the underlying assets, review the calculation of the amount of goodwill written off and determine if it is proper. Goodwill amortization should not be claimed until the proper quarter.

7) "Accrued but Uncollected Interest" (1)

Obtain the journal entry, support for the journal entry, loan and accrued interest history, and the FDIC/FSLIC approval letter which corresponds to the authorization number on the worksheet, and perform the following procedures:

Procedures
Not Performed

- Review the journal entry and the support for the journal entry and determine that the write-off and the amount written off are appropriate;
- Agree the amount of the interest written off to the loan and accrued interest history, journal entry, and general ledger; and,
- Agree the amount of the interest written off to the FDIC/FSLIC authorization letter.
- Verify any subsequent collections of Accrued but Uncollected Interest were properly credited to SRA I;
- Determine that the amount written off applies only to the period prior to the Effective Date, if such limitation is provided for in the Agreement; and,
- For Accrued but Uncollected Interest applicable to the period prior to the Effective Date, determine that the amount claimed on SRA I is no greater than the amount reflected in the Initial Audit.

SPECIAL RESERVE ACCOUNT I CREDIT ITEMS:

Review the transactions of the quarterly reports submitted. Trace items as reported to supporting documentation using specified procedures. Ensure reports are adequately documented and all amounts claimed by the association are in compliance with the Agreement.

Analyze general ledger accounts of the association, including those related to income and expenses, to the extent judged appropriate, to test whether income, recoveries or unrecorded assets have been taken into income without proper credit to the Special Reserve Account.

1) "Unreflected Asset" (2)

Review supporting documentation (journal entries, cancelled checks, invoices, workpapers, etc.) and determine that the item is properly recorded.

2) "Covered Asset Recoveries"

For each line item selected for testing, obtain copies of the Sales Contracts, Closing Statements, Asset Sale Requests, Appraisals (if available), Asset Summaries, and the FDIC/FSLIC Authorizations (when applicable), and perform the following procedures:

- Determine that the recovery or gain is equal to the excess of Net Proceeds Received over Book Value, as these terms are defined in the Assistance Agreement. (Note: Prorated income and expense items (e.g., rent, taxes, insurance) are not included in Net Proceeds Received, but are included in Actual Loss/Yield);
- To review the calculation of Book Value, obtain the analysis (e.g., loan history, ledger card, worksheet, etc.) of the asset from the Effective Date to the date of sale and perform the following procedures:

  Agree the book value as of the Effective Date to the Covered Asset Schedule prepared as of the Effective Date. Once the Initial Audit is issued, review the financial statements for any changes in book value mandated by the Initial Audit; and,

  Review changes in the book value since the Effective Date and determine appropriateness of changes. Charges should be supported by invoices, cancelled checks, and FDIC/FSLIC Authorizations when applicable;

- Agree Net Proceeds Received per the Closing Statement to the general ledger and to the calculation of Net Proceeds Received as defined by the Assistance Agreement;
- Review the Closing Statement and determine if the sale was financed by the institution or a subsidiary of the institution. If it was, note whether an Asset Sale Request with Financing Terms was submitted for FDIC/FSLIC Authorization;
- If a participating interest exists, ascertain that only the institution's share of the recovery has been recovered;
- Determine that the unamortized balance of deferred credits or debits (i.e., loan discounts or premium, remaining escrow balances, etc.) related to the Covered Asset disposed of has been written off to Actual Loss/Yield;
- Determine whether the actual recovery or gain is reasonable compared to the estimated recovery authorized by FDIC/FSLIC. If the actual recovery is not reasonable compared to the FDIC/FSLIC Authorization, take exception to the difference;

Procedures
Not Performed

- If the disposition of any Other Covered Asset does not have an FDIC/FSLIC Authorization, determine whether the sale was in compliance with the provisions of Section 14 of the Assistance Agreement, which allow for the disposition of certain Other Covered Assets without the submission of an Asset Sale Request. If the sale was not in compliance with these provisions, take exception;

- Sample the line items labeled "Covered Asset Recoveries", to verify that the book value has been removed from the general ledger and is not included in the calculation of Guaranteed Yield;

- Ensure that the percentage of recovery credited to the Special Reserve Account is in compliance with the Agreement; and;

- Review the association's records to insure all recoveries have been reported.

3) "Offset Gain" (2)

Obtain copies of support and review support to determine that the credit is properly recorded.

4) "Tax Benefits" (4)

Obtain copies of the federal and state tax returns filed by Franklin Federal after the Effective Date and final returns for the closed associations including applications for refunds.

- Ensure that refunds were credited to the Special Reserve Account in accordance with the Agreement.

- Review accounting changes, timing differences and related reversals.

- Review tax benefits realized by Franklin Federal that are creditable to the Special Reserve Account, including tax deductions for losses on liabilities or assets that have increased the amount of refund for loss carrybacks and carryforwards.

- Review the files and tax memoranda. Discuss tax strategy with management to ascertain efforts to maximize tax benefits to the FDIC/FSLIC and determine any conflicts of interest.

- Review the tax effect of debits and credits to the Special Reserve Accounts, as well as NOL carrybacks and carryforwards. Ascertain whether proper credits were made to the Special Reserve Accounts to reflect all tax benefits resulting from losses on assets, including carrybacks to prior years' returns.

5) "Dividends" (2)

Review the worksheet for dividends and agree the information to Board of Directors' Minutes, journal entries, the general ledger, and FDIC/FSLIC Authorizations, if any. Determine that the worksheet complies with the Assistance Agreement.

6) "Recovery of Write-down" (2)

Obtain copies of Sales Contracts, Closing Statements, Asset Sale Requests, Appraisals (if applicable), Asset Summaries, and the FDIC/FSLIC Authorizations (when applicable) and perform the following procedures:

- Review documentation supporting the write-down of each Covered Asset selected for review. Determine if the amount of the write-down was entered as a debit to Special Reserve Account I under Capital Losses on Covered Assets. Agree amount authorized by FDIC/FSLIC to amount debited;

- Review Franklin Federal's calculation of Book Value for the Covered Asset to ensure that the calculation was in accordance with the Agreement section;

(2)

- Ensure that the amount of the recovery credit is equal to the excess of the Net Proceeds Received over the Book Value, but does not exceed the amount of the write-down, as these terms are defined in the Assistance Agreement; and,

- Sample the line items labeled "Recovery of Write-down" to verify that the Book Value has been removed from the general ledger and is not included in the calculation of Guaranteed Yield.

7) "FHLMC Stock"

Ensure that the credit is equal to the excess of the Fair Market Value as of the Effective Date of any FHLMC stock acquired from CreditBanc, Franklin, or Great West over the value of such stock on the books and records of the acquired associations.

Procedures
Not Performed

REVIEW OF SPECIAL RESERVE ACCOUNT II

SPECIAL RESERVE ACCOUNT II GENERAL:

- Verify that the "Beginning Balance This Report" on the Quarterly Report Grand Summary is zero. The beginning balance will be zero if FDIC/FSLIC has funded the entire amount of the "Ending Balance This Report" from the previous quarterly report or if this is the initial quarterly report. If there is a balance on this line, determine whether FDIC/FSLIC took some exceptions to the previous quarter's SRA II report which have yet to be resolved, and therefore, the entire "Ending Balance This Report" from the previous quarter has not yet been paid.

SPECIAL RESERVE ACCOUNT II DEBIT ITEMS:

Review the transactions of the reports submitted. Trace items as reported to supporting documentation using specified procedures. Ensure reports are adequately documented and all amounts claimed by the association and paid by the FSLIC are in compliance with the Agreement.

1) "Guaranteed Yield":

- Obtain the Covered Asset Schedule prepared as of the Effective Date and determine that the assets listed on the schedule were properly classified as Covered Assets. Testing should include determining that SFR loans treated as covered on the Effective Date qualify for coverage under the Agreement;
- Determine that unsecured advances and loans to a first tier subsidiary were properly recorded as a part of the "investment in subsidiary" account and not recorded as a separate covered asset;
- Reconcile the total book value on the Covered Asset Schedule to the total book value of the covered assets reported in Exhibit 5 of the Assistance Agreement and make appropriate adjustments to the Guaranteed Yield calculation;
- Determine that the book values of all Covered Assets sold, written off, or otherwise disposed of (including the elimination of nonexistent assets) on the Quarterly Report--SRA I have been removed from the worksheet for the calculation of Guaranteed Yield (Note: Date of deletion is the closing date of the sale or the date the writedown was authorized);
- Review the detail loan trial balance for change in the status of 1-4 SFR loans and determine if loans were properly added to or deleted from the Covered Asset Schedule;
- Review the book values of all assets which have become Covered Assets since the last quarterly report and determine that the book value is properly recorded;
- Determine that fixed assets occupied on the first anniversary of the Effective Date by the association by at least the percentage required in the Agreement have been deleted from the Covered Assets;
- Review the association's capitalization policy with regard to expenditures which would qualify for Actual Loss if they were not capitalized and verify that the expenditures are not both capitalized and recorded in Actual Loss;
- Review foreclosed real estate and determine that the book value is net of underlying liens;
- Review real estate held for investment purposes and determine that the book value includes secured liens recorded on the general ledger;
- Review other changes in the book value of Covered Assets and investigate significant changes (changes in each asset in excess of 5% of book value) during the quarter. Determine if FDIC/FSLIC approval was required and if so, whether it was obtained;
- Agree book values of the Covered Assets on the worksheet to the general ledger;
- Verify that the Guaranteed Rate is calculated correctly;
- Verify that the Texas Cost of Funds rate is correct;
- Determine that the Average Book Value is properly computed; and,

Procedures Not Performed

- o Determine that the calculation of Guaranteed Yield is mathematically correct.

2) "Negative Actual Yield and/or Actual Yield":

- o Verify that the information is presented by Covered Asset and not just in total;
- o Verify that items included in SRA I are excluded from SRA II. (e.g., Capital Losses on Covered Assets, Related Claims Expense, Write-off of Accrued but Uncollected Interest, Purchased Claims, etc.);
- o Verify that the total is properly classified as Actual Loss or Actual Yield;
- o Compare Actual Loss/Yield schedules to the prior quarter and investigate unusual variances;
- o Select a sample of line items and perform the following procedures:
  - -Agree Actual Loss and Actual Yield on the worksheet to the general ledger;
  - -On loans, agree interest income to loan reports;
  - -Select a sample of line items from the loan reports and agree interest income to cash receipts or, if on the accrual basis, recalculate;
  - -Verify that the Actual Loss or Yield recorded for subsidiaries agrees to the institution's share of Actual Loss or Yield on the subsidiaries' respective general ledgers. Review the subsidiaries' general ledgers and investigate any unusual items;
- o On REO, agree Actual Loss or Yield to financial statements or operating reports. Obtain copies of reports received from outside management, if any;
- o Verify that adequate documentation is kept to support Actual Loss or Yield on the worksheet, either at the institution or with the outside management. Documentation will include, but is not limited to, bank statements, deposit slips, cancelled checks, lease agreements, rent rolls, invoices, contracts, etc;
- o Review operating reports and investigate unusual line items or variances. Investigation should include review of supporting documentation. Determine that overhead of the institution is not being charged to the projects;
- o Review significant legal expenses charged to the projects and ascertain they are properly classified as project expenses;
- o If real estate held for investment has related secured liabilities determine that Actual Loss or Yield does not include the interest expense on those secured liabilities; (2)
- o Determine if the requirements of Sections 12, 13, and 14 of the Assistance Agreement have been met. If not, verify that the amounts related to the individual Covered Assets do not exceed the limitations imposed by Sections 12, 13, and 14; and,
- o If budgets have been approved as required by Sections 12, 13, and 14 of the Assistance Agreement, verify that the cumulative expenditures to date do not exceed the approved dollar limits in the budgets.
- o Determine that net losses are not being reimbursed for subsidiary accounts with negative or zero balances.

Procedures
Not Performed

- o Review the PMI reimbursements recorded in the general ledger and ascertain that all reimbursements relating to Covered Asset Losses have been credited to the SRA.

6) "Miscellaneous Debits and Credits" (2)

- o For each "Other Debit" and "Other Credit" listed on the worksheet, obtain the support (e.g., invoices, journal vouchers, FDIC/DFO authorizations, and other letters, internal memos, contracts, cancelled checks, etc.);
- o Agree the amount on the worksheet to the general ledger;
- o Agree the amount to the FDIC/DFO authorization letter, if applicable; and,
- o Review the support and determine whether the "Other Debit" or "Other Credit" is properly recorded.

Legend:
(1) Will be performed in next FDIC compliance audit.
(2) Item did not exist or was below audit scope.
(3) See qualification in audit opinion on page 7.
(4) See further discussion in Scope and Objectives Section on page 1.

FRANKLIN FEDERAL BANCORP, FSB

SCHEDULE OF DEBITS AND CREDITS TO THE SPECIAL RESERVE ACCOUNTS ("SRA")

FOR THE PERIOD FROM SEPTEMBER 30, 1988, THROUGH DECEMBER 31, 1989

SRA I	SRA Activity as Billed	Payments Denied by the Fund	Resubmissions	SRA Activity as Adjusted by Franklin	Recommended Adjustments
DEBITS:					
Capital losses on covered assets	$ 14,611,619	$ (20,322)	$ -	$ 14,591,297	$ -
Indemnifications	15,923	-	-	15,923	-
Related claims expense	-	-	-	-	-
Covered assets purchase	-	-	-	-	-
Assignment of acquired association claims	-	-	-	-	-
Accrued but uncollected interest	-	-	-	-	-
Disallowed tax deductions	-	-	-	-	-
Net tax detriments	-	-	-	-	-
Interim regulatory capital adjustments	-	-	-	-	-
Nonexistent assets	169,952	(150,386)	-	19,566	-
Purchased claims	374,354	(220,651)	26,199	179,902	-
Amortization of goodwill	8,187,607	(858,400)	19,292	7,348,499	-
Other debits	11,098	(11,098)	-	-	-

CREDITS:					
Unreflected assets	(395,245)	-	-	(395,245)	-
Recovery of write-downs	-	-	-	-	-
Covered asset recoveries	(221,098)	(560)	-	(221,658)	-
Offset gains	(115,580)	-	-	(115,580)	-
Net tax benefits	-	-	-	-	-
Dividends	-	-	-	-	-
Other credits	(571,880)	-	-	(571,880)	-
Total net SRA I activity	$ 22,066,750	$(1,261,417)	$ 45,491	$ 20,850,824	$ -
SRA II					
DEBITS:					
Guaranteed yield	$129,695,319	$(2,739,674)	$ 3,387,427	$130,343,072	$ (14,226)
Actual loss	29,032,845	(2,513,520)	2,471,171	28,990,496	-
Other debits	-	-	-	-	-
CREDITS:					
Actual yield	(36,371,234)	5,261,322	2,096,327	(29,013,585)	(11,572)
Other credits	-	-	-	-	-
Total net SRA II activity	$122,356,930	$ 8,128	$ 7,954,925	$130,319,983	$ (25,798)

NOTE: The above amounts were derived from Franklin's supporting quarterly reports to the FSLIC and the FDIC.

Appendix III

FRANKLIN FEDERAL BANCORP
A Federal Savings Bank

March 6, 1991

Marilyn R. Kraus
FDIC Office of Inspector General
Room F-600
550 17th Street, N.W.
Washington, DC 20429

Dear Ms. Kraus:

We at Franklin Federal Bancorp, F.S.B. (FFB) appreciate being given the opportunity to review and comment on the draft report prepared by Arthur Andersen (AA) resulting from their audit of our compliance with the Assistance Agreement (Case Number SWP-016c). We noted that the comments we made at the time Arthur Andersen was in the field and comments we made subsequent to their field work have been included in the draft. The following comments are to clarify/supplement previous auditee response.

1a. FFB's initial response indicated that management concurred with the findings of AA. The appropriate adjustment has been recorded in the SRA accounts and proper credit was given to FDIC in the December 31, 1990 quarterly submission.

b. FFB's initial response indicated that management concurred with the findings of AA. FFB takes no exception to AA's recommendation.

c. FFB's initial response indicated that management believes these loans are properly recorded as covered loans.

At the time these loans were classified as covered, extensive conversations were conducted with representatives of FSLIC to determine the propriety of the classification. During these discussions the methodology used by FFB was discussed at length and no exception was taken by any FSLIC representative.

On February 21, 1989, in an effort to obtain the written concurrence of the FSLIC/FDIC regarding the treatment of these loans, FFB submitted through its field case manager (Wallace Associates) a specific request (#SW-16-89-G026) to its Case Manager Terry May. A copy of the request is attached. While the concurrence of the field Case Manager was obtained on March 13, 1989, the request was never acted upon by the Case Manager.

The subsequent directive from TAAOS would, if applied to these loans, result in their being reclassified two and a half years after the effective date.

Nevertheless, to follow the recommendation of AA, FFB will, concurrent with this response, submit a specific request (#SW-16-0094) to its Case Manager requesting (1) to credit the FDIC for all guaranteed yield paid to FFB from the effective date to present on all loans falling within the category mentioned, (2) to charge the FDIC for actual yield credited to it from the effective date to present on all loans falling within the category mentioned, (3) to increase reimbursable goodwill for the "mark-to-market" on these loans since they were not included in the original determination of reimbursable goodwill previously established by the audits specified in Section 3(a)(11) of the Assistance Agreement and (4) to charge the FDIC for goodwill amortization in respect of these loans from the effective date to December 31, 1990.

After the approval of this specific request FFB will begin the determination of the amounts requested and submit all charges and credits as soon as possible.

2a. FFB's initial response indicated that management concurred with the findings of AA and that corrective action had been taken. The procedures outlined in the auditee's response are consistent with FFB written policies and procedures.

2b. FFB's initial response indicated that management concurred with the findings of AA and that corrective action had been taken. The procedures outlined in the auditee's response are consistent with FFB written policies and procedures.

2c. FFB's initial response indicated that management concurred and had implemented a reconciliation procedure in January 1990. It should be noted that although the procedure was established in January and followed consistently during the year reconciling items were not all cleared until December 31, 1990.

Apx. FFB believes it cooperated fully with AA personnel conducting the audit, and if AA had any problems in obtaining attorneys' responses, FFB should have been advised of this during the audit and given an opportunity to intercede and request attorney responses. Of course, extensive information regarding FFB's litigation is already in the possession of FDIC, including attorneys' letters obtained in the examination process.

If you have any questions or comments with regard to these responses please contact myself or Mike Cook.

Sincerely,

Sharon Kincaid
Sharon J. Kincaid
Executive Vice President

APPENDIX IV

ATTORNEYS' LETTERS

(None were obtained.)

ATTACHMENT D

TESTIMONY OF

L. WILLIAM SEIDMAN
CHAIRMAN
FEDERAL DEPOSIT INSURANCE CORPORATION

ON

THE CONDITION OF THE BANK INSURANCE FUND AND RECAPITALIZATION

BEFORE THE

COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

10:00 a.m.
THURSDAY, APRIL 11, 1991
ROOM 2129, RAYBURN HOUSE OFFICE BUILDING

Good morning, Mr. Chairman and members of the Committee. I appreciate the opportunity to discuss the condition of the Bank Insurance Fund and to present the Federal Deposit Insurance Corporation's views on recapitalization of the Fund and necessary protections for the deposit insurance funds.

There recently has been some confusion about the estimated money required to recapitalize the Bank Insurance Fund (BIF). I will present the FDIC's current estimate of the future condition of the BIF. Let me, however, warn you that these estimates are based on moving numbers of projected bank failures largely dependent on future economic conditions. These conditions have changed in the past and are likely to change in the future. I will also explain the Administration's plan for ensuring the continued health of the BIF. The Administration in conjunction with the FDIC has developed a plan to ensure the continued adequacy of the BIF to protect depositors against possible losses stemming from bank failures. The banks will meet the cost of the plan through payment of increased premiums. Taxpayer money is not required.

While adequate funding for BIF is important, it is essential to take steps to promote the long-term viability of the insurance funds. Otherwise, we will just be pumping water out of a leaky ship. Funding current problems needs to be accompanied by a restructuring of the banking system and a strengthening of supervisory powers and regulations.

Bank Failures and the FDIC's Need for Liquidity

Before proceeding further, it will be useful to give a hypothetical example of how the FDIC might handle a bank failure in order to clarify some of the terms used in this testimony. More specifically, we want to ensure that our use of the terms insurance losses, fund balance, borrowing and working capital is clear. Suppose a bank fails with liabilities of only $100 in insured deposits. The bank has assets with a book value of $100, but a present value of only $90. Therefore, FDIC's sale or liquidation of this failed bank results in an insurance loss of $10 equal to the bank's negative net worth. This transaction results in a reduction in the BIF's fund balance (also known as net worth) of $10.

Typically, not all the $100 of assets would be of impaired value. Usually, about $60 of the original $100 are sound assets worth 100 cents on the dollar, while the other $40 are nonperforming assets worth 75 cents on the dollar. Suppose it is less costly to the FDIC for an acquirer to assume the $100 in deposit liabilities in exchange for the $60 of "clean" assets, and an additional cash payment from the FDIC of $40. Thus, the FDIC has funded the purchase through a receivership of the $40 in "bad" assets from the failed bank (which, of course, are worth only $30 -- the difference being the unsecured loss).

If the FDIC financed this transaction entirely from its own resources, its net liquid assets would decline by $40, and its non-liquid assets, an account receivable from the liquidating receivership, would increase by $30, reflecting the net value of the receivable remaining after subtracting an allowance for loss of $10. The net result would be a $10 decline in the BIF's fund balance. The crucial point is that the less costly transaction may require that the initial outlay ($40) be much more than the insurance loss ($10) related to the failed institution.

If the FDIC borrowed the $40 to finance its initial cash outlay, BIF liabilities would increase by $40, and again its net receivables from bank failures would increase by $30, resulting in a $10 decline in the fund balance. One can think of the $40 borrowing as divided into two components: $10 to pay for the insurance losses related to the failed bank, and the other $30 which will be recovered by the FDIC over time as the assets are sold. This portion of the initial outlay which is expected to be recovered therefore reflects liquidity needs (called working capital), not losses to the BIF. The portion of the initial outlay which is not recovered is the insurance loss and is paid through insurance assessments; the BIF fund balance is simply the accumulation of past insurance assessments.

CONDITION OF THE BANK INSURANCE FUND

Preliminary, unaudited financial reports for 1990 show that the BIF had an operating loss of $4.854 billion, bringing the size of the fund down 37 percent from year-end 1989 to $8.356 billion. The BIF now has about 42 cents in reserve for every $100 of deposits insured.

Total revenues increased by 10 percent to $3.9 billion in 1990. This increase was due primarily to a 52 percent increase in assessment income resulting from the statutory increase in assessment rates from .083 percent to .12 percent of assessed deposits for 1990, offset by a 38 percent decrease in investment revenues.

The number of bank failures decreased from 207 in 1989 to 169 in 1990. Insurance losses of $8.5 billion were charged to the BIF in 1990, although $3.4 billion of this represents estimated costs of bank failures in 1991.

Cash and U.S. Treasury obligations decreased by 50 percent in 1990 from $13.7 billion to $6.9 billion and now represent about 42 percent of total assets of the BIF. A significant portion of this decrease ($3.6 billion) was related to money needed for working capital to handle closed banks.

Since these results are just now being audited by the General Accounting Office, they are subject to change. However, our experience has been that any major issues resulting from these audits have been related to the timing of when to book the losses from future bank failures. As indicated above, we have already shifted $3.4 billion in anticipated losses to 1990 for banks actually not expected to fail until 1991. An example of this recognition of losses in 1990 for a 1991 failure is the Bank of New England.

The loss for 1990 represents the third consecutive year that the BIF has reported an operating loss. Most observers of the banking industry and the insurance fund agree that both face challenges not encountered since the inception of federal deposit insurance in 1934. Attempting to make an informed judgment as to the condition of the BIF requires making a series of projections regarding all the factors that influence costs and revenues to the BIF. In particular, forecasts must be made regarding the likely state of the national, regional and local economies and real estate markets, the likely impact of these events on bank losses, the number of bank insolvencies and the probable cost of these failures. In short, the condition of the BIF is dependent on a complex series of events that is impossible to forecast with any degree of confidence. Thus, any projection of the future course of the deposit insurance fund -- and, hence, the current condition of BIF -- is subject to considerable uncertainty. It should be noted that our forecasts have changed in the past and clearly will change in the future. The current recession has caused our forecast losses to increase. Nevertheless, it is important for the FDIC and other interested parties to try to assess the condition of BIF.

The FDIC for the past several years has prepared an estimate of bank failures for internal planning purposes. In contrast to projections of outside parties that are based on modeling, the FDIC's estimates for banks over $100 million in assets are based on a bank-by-bank analysis performed by our supervisory staff in the field using examination reports and our off-site "CAEL" early warning system. Clearly, this exercise has become more important as the system and the BIF have come under increasing stress.

Earlier this year we completed a review of likely failures for calendar years 1991 and 1992. The review covered just those two years because our experience has taught us that projecting banking conditions beyond six to eight quarters involves so much uncertainty as to render the results almost useless. We instructed our professional supervisory staff to identify banks they believed would have a greater than 50 percent chance of needing FDIC financial assistance during 1991 or 1992 under two different economic scenarios: a baseline case that assumes a moderate recession ending by mid-year 1991; and a pessimistic case that assumes a recession that lasts for more than one year. We did not attempt to project best-case or worst-case scenarios. Our results to date for 1991 generally follow the path of the baseline projection. At this point, the pessimistic forecast is not supported by present results.

As requested by the Committee, we are extending the projections through 1993. Since this requires a complete field examination report, the projections under our normal procedures are not yet available. Thus, we have elected to base the figures for 1993 on the estimates of the Office of Management and Budget (OMB). These appear to be fairly pessimistic. Let me emphasize, however, we place little reliance on bank-failure projections extending this far into the future.

Attached as an exhibit to this testimony (Attachment 1) is a summary of the results as well as statistics on the number of and assets in banks officially designated as problem institutions. For comparative purposes a summary of the differences between the projections of the FDIC, the Congressional Budget Office (CBO) and the OMB is included (Attachment 2). It should be noted that for the years 1991 and 1992, the FDIC's pessimistic scenario is more conservative than both the CBO and OMB projections. The FDIC's baseline case results in a fund balance of about $4.1 billion at year-end 1991, and a $3.6 billion balance at year-end 1992. The pessimistic case results in a $0.2 billion fund balance at the end of 1991, a deficit of $4.6 billion by year-end 1992 and, since we used the OMB estimate for 1993, a $9.1 billion deficit at year-end 1993. Both cases assume that the premium assessment rate is changed from the current 19.5 cents per $100 of domestic deposits to 23 cents per $100 on July 1, 1991.

All scenarios require that the FDIC borrow for working capital purposes during this period, as it has in the past. We currently have about $70 billion in borrowing authority -- nine times our present net worth. Under the baseline scenario, failed-bank assets in 1991 are expected to be about $65 billion, not including banks failing in 1991 for which the FDIC recognized losses in 1990. The FDIC's net loss in these institutions is expected to be about $9.2 billion, but the initial outlay, which includes the loss, is likely to be about $19.1 billion, because of the likely need for the FDIC to fund the purchase of some of the assets of the failed banks. Similarly, in 1992, failed-bank assets under the baseline scenario are expected to be roughly $30 billion, corresponding to an insurance loss of $5.7 billion and an outlay of $15.7 billion. (See Attachment 1 for assumptions underlying these projections.)

Under the more pessimistic scenario, failed-bank assets in 1991 are expected to be about $90 billion, for a loss of $13 billion and an outlay in 1991 of $23.8 billion. The corresponding estimates for 1992 are failed-bank assets of $70 billion, an insurance loss of $10 billion and an outlay of $35 billion. The $35 billion 1992 outlay includes outlays for banks for which the FDIC recognized losses in 1991.

The FDIC must make other outlays in 1991 as well, including $8 billion for banks failing in 1991 whose estimated cost of failure was recognized in 1990, and $2.5 billion for note repayments and various operating disbursements. Total outlays for 1991 are $29.6 billion under the baseline scenario and $34.3 billion under the pessimistic scenario. For 1992, outlays under the two scenarios are $17.2 billion and $36.4 billion, respectively.

Three main conclusions emerge. First, the FDIC must borrow for working capital purposes. Cash and equivalents on hand at year-end 1990 of $6.9 billion, plus expected cash receipts during 1991 of $10.7 billion, fall considerably short of the outlay that will be required under either scenario. New borrowings required under the baseline scenario in 1991 will be $14.5 billion, and $19.1 billion under the pessimistic scenario.

Second, the FDIC will be able to borrow enough under either scenario to meet its needs for fiscal 1991. In fact, under the baseline scenario the FDIC will need no new borrowing authority for 1991 and 1992. Under the pessimistic scenario, however, the FDIC may need expanded borrowing authority late in 1991 and will certainly need substantial new borrowing authority in 1992.

Finally, and most important, a sound long-term plan to recapitalize the BIF is necessary. Adequate funding is essential for the insurer to operate in a cost-effective and decisive manner.

RECAPITALIZATION AND PROTECTING THE INSURANCE FUND

There is general agreement with regard to the guiding principles for any recapitalization plan. These are:

- Under present circumstances, the banking industry should be responsible for whatever losses are to be absorbed by the BIF.
- Recapitalization of the BIF addresses the immediate problems of the industry's insurance fund, but does nothing to address the more significant structural problems of the industry that have contributed to the present problems. That is, funding current problems needs to be accompanied by a restructuring of the banking system and additional safeguards for the protection of the insurance fund.
- The plan should not inhibit the industry from providing for the legitimate credit and liquidity needs of the local and national economies.

- The plan must be flexible enough so that the demands on the industry will be commensurate with the needs of the fund.

- Supervisory powers and regulations must be strengthened to reduce insurance fund losses.

These principles guided the FDIC in formulating our recommendations on the necessary components for a safe and sound deposit insurance fund.

Near-term Funding

As stated above, we believe the FDIC will need no new borrowing authority in 1991 and 1992 under the baseline scenario. Under our pessimistic scenario the FDIC can meet its financial requirements at least through fiscal year 1991, ending on September 30, and perhaps through the end of calendar year 1991. As indicated in Attachment 3, under this scenario, the FDIC may have to utilize the $5 billion Treasury line of credit during fourth quarter 1991.

It is anticipated that the source of most FDIC borrowings for working capital will be the Federal Financing Bank (FFB). FFB borrowings mature on the first business day of the first quarter following the borrowing date, but both principal and interest can be "rolled over." The interest rate for FFB borrowings is one eighth of one percent above the three-month Treasury bill rate for new issues. The FDIC would pay this interest as it accrues, and would pay down the principal over a period not to exceed fifteen years. FFB borrowings by the FDIC are backed by the full faith and credit of the U.S. government, since both the principal balance and maturity are stated as part of the borrowing agreement.

To the extent that working capital is needed and borrowed in anticipation of losses, it will be repaid from dedicated increases in premium.

The insurance losses in failed banks in 1991 will be paid for out of the current BIF fund, with borrowings being used to fund the purchase of assets from the failed bank at their estimated true economic value, as described earlier. For example, if the FDIC were required to borrow $18 billion in 1991, it would also have funded the purchase of non-liquid assets from failed banks estimated to be worth $18 billion. In addition, as an added cushion, a stream of additional premium income estimated to be worth $10 billion also stands behind any borrowings.

Since the FDIC could become insolvent, as it would in 1992 under our pessimistic scenario, or if the fund balance becomes insufficient to support necessary borrowings, a longer-term plan is required. Such a plan is described in the next section.

Some observers have expressed concern that the FDIC's proposed 3.5 basis point increase of the insurance assessment to finance borrowings will be substantially detrimental to the banking industry. While it will certainly not be beneficial, it can be borne by the industry without undue damage. The FDIC staff estimates that increasing the assessment rate from 19.5 cents to 23 cents for the second half of 1991 would have a minimal impact on industry capital levels. The tangible equity capitalization of BIF members as of September 30, 1990 was approximately $224.3 billion. An assessment rate increase of 3.5 basis points, effective with the second-half 1991 semiannual assessment, would raise 1991 industry assessments by an estimated $435 million during 1991, or less than .2 percent of third-quarter 1990 industry capital. On an annualized basis, the additional assessments ($870 million) amount to about .39 percent of third-quarter 1990 industry capital.

Insurance assessments are a tax deductible operating expense for banks. Assuming an average tax rate of 34 percent, the after-tax cost of the assessment increase would be $574 million per year. In addition, it is reasonable to expect that some portion of the assessment increase will be passed along to bank customers in the form of higher borrowing rates, increased service fees, and lower deposit rates. However, the FDIC staff has assumed, for the purposes of this analysis, that banks will bear the full after-tax cost of the assessment.

During 1992, the assessment increase is projected to raise the number of poorly capitalized banks -- those with less than three percent tangible capital -- by only six banks with average assets of under $34 million. The number of banks with between three and six percent tangible capital is projected to increase by nine with average assets of under $255 million. In sum, while the assessment increase lowers the book capital of most banks, the overall impact is expected to be negligible.

Longer-term Recapitalization and Funding Issues

In addition to meeting the BIF's current needs for liquidity, it is necessary to ensure the longer-term viability of the insurance funds. This involves the reforms to the deposit insurance system and the financial supervisory structure that will be debated in the coming months, and additional flexibility to meet potential costs after 1991.

The Treasury Department has proposed a longer-term funding plan for the BIF that requires the banking industry to fund certain obligations of the BIF -- no taxpayer money is requested. The FDIC Board has reviewed the main outlines of Treasury's recommendations and endorses the proposal. Legislation will be required to implement many aspects of the Treasury plan.

The Treasury's long-term plan is a contingency plan. It is based on a total of $70 billion in standby borrowing authority. Of this, $45 billion would be for working capital to purchase non-liquid assets (such as real estate) from failed banks at their estimated true economic value, to be recovered over time as these assets are sold. The remaining $25 billion would be to absorb insurance losses, and would be repaid by the banking industry through dedicated insurance premiums.

The BIF has a $5 billion line of credit at the U.S. Treasury. The Treasury's proposal would authorize the BIF to use that line of credit as a base to borrow up to nine times that amount; under current law the BIF can borrow up to nine times its net worth. Therefore the Treasury proposal would result in the ability to borrow up to $45 billion. This borrowing authority would be used to provide needed liquidity. As discussed above, under a pessimistic (but not worst-case) scenario, the BIF's liquidity needs could amount to $19.1 billion for 1991; total borrowings under this scenario would reach $40 billion by year-end 1992. Total borrowings under the OMB/FDIC pessimistic scenario would be $42.5 billion by year-end 1993.

The Treasury also has recommended that the BIF be given the authority to borrow up to $25 billion from the Federal Reserve. This borrowing authority would be used to cover insurance losses as required. Thus, this plan does not require banks to cover the losses in the fund immediately since such additional costs could delay the recovery of the industry. Instead, the BIF could borrow from the Federal Reserve or other sources and increase insurance premiums in order to repay the borrowing over time as the economy recovers.

The three principal merits of the proposal deserve emphasis. First, the plan provides adequate resources to deal with the most pessimistic scenario considered through 1993, based on the OMB scenario. As indicated in Attachment 2, under the OMB scenario, insurance losses from 1991 through 1993 could be as high as $36 billion. In conjunction with the BIF's year-end 1990 balance of $8 billion, and projected assessment income from 1991 through 1993 of $17 billion, the $25 billion in borrowing authority would provide $50 billion to cover the $36 billion insurance losses estimated by OMB. The $14 billion difference is a comfortable but not excessive cushion.

Second, the plan does not impose needless burdens. Money will not be borrowed unless needed.

Finally, and most important, the plan does not require taxpayer funding. For each $10 billion of borrowing up to the $25 billion authorization, 3.5 basis points of banks' insurance assessments would be dedicated to service principal and interest. The FDIC has already proposed an assessment increase that would cover up to $10 billion under this authority, so at most there would be an additional $15 billion in borrowings and an additional 5.25 basis points of insurance assessments dedicated to debt service. Even if it is necessary to raise insurance assessments this is consistent with the 30 basis point cap on aggregate assessments the FDIC has proposed.

The BIF's borrowings from the Federal Reserve Banks would be backed by the full faith and credit of the U.S. government, provided the maturity and principal amount are stated as part of the terms of the borrowing agreement. This should allow the BIF to borrow at the same interest rate as prevails for Treasury obligations of comparable maturity.

Another key part of the proposal would cap annual premiums paid by BIF-insured institutions at 30 basis points of the assessment base. Thi recommendation recognizes that the unlimited call on the banking industry's capital that now exists likely will deter capital from entering the banking industry. Any changes that are made to ensure adequate long-term funding for the BIF must be consistent with the need to maintain incentives for capital investment in the banking industry. However, in order to accommodate a system of risk-based insurance premiums, the FDIC should have the flexibility to charge particular institutions premiums that exceed the cap.

Two other authorities also would be very helpful. First, the FDIC should be granted the authority to determine the appropriate premium assessment base under any set of circumstances. Importantly, this would allow the insurer to conform the assessment base to the insurance coverage if it so desired.

Second, we recommend that the ongoing reserve level for the BIF should be 1.5 percent of the assessment base. This would be financed by assessments and earnings on the reserve fund's investments, and would be used for ongoing insurance expenses. Shortfalls from target levels, such as currently exist, would be made up gradually over time.

In our view, this plan is a sound and responsible way to ensure that resources are available to deal with any likely scenario. It provides a dedicated stream of income for repaying borrowings, and is based on the premise that funds will be borrowed only as they are needed.

Longer-term Viability

While a recapitalization plan is necessary at this time, steps to promote long-term viability of the insurance funds must also be taken. These are outlined below.

Independent insurer. In order to ensure long-term viability, the federal deposit insurer must be able to act vigorously and independently, in a manner analogous to private insurance companies, to protect its fund and the taxpayers with a Board structure which encourages the exercise of this independence. All primary federal regulators should be represented on the Board but they should constitute less than a majority of the Board.

Examination, supervisory and enforcement authority. Long-term viability requires that the insurer be able to participate in the process of monitoring insured institutions' risk exposure to ensure that they remain financially strong. While the primary regulator should provide the principal examination of and supervisory direction to depository institutions, the insurer must have an experienced examination and supervisory staff and be a "back up" regulator.

The FDIC should be able to examine depository institutions jointly with the primary regulator to judge safety and soundness. Emphasis in this regard normally would be placed on the insurer's participation in the examination of troubled institutions (CAMEL/MACRO 3-5). However, the insurer should have the right to examine any bank at any time. This is particularly important when it is not possible to schedule a timely joint examination.

The insurer also should have broad enforcement authority over all insured institutions in accordance with its current authority under FIRREA for thrift institutions. Further, the insurer should be able to set minimum capital standards for any bank it insures.

While capital levels in banks are clearly very important, we should not lose sight of the fact that capital alone is not the sole answer to a safe and sound banking system. In fact, capital levels are a lagging indicator of financial well-being as evidenced in Texas and more recently in the New England savings banks.

The insurer must be able to obtain any information it believes is necessary to gauge risks. Standard data collection requirements could be determined by the FFIEC. But the primary regulator should promptly make available to the insurer all information relating to the safety and soundness of each institution.

Federal deposit insurance with respect to all institutions should be granted only with the approval of the insurer. The insurer should have the right to deny insurance based on the specific statutory criteria currently provided for in Section 6 of the FDI Act. The decision of the primary regulator to issue a charter should be presumptive evidence of the institution's insurability, but such presumption can be rebutted by the insurer's Board if it determines the institution does not meet these criteria.

Revoking insurance promptly is as important as determining who gets insurance in the first instance. The insurer must be able to terminate insurance expeditiously for institutions it determines to be operating in an unsafe and unsound manner, including the accelerated termination procedures in FIRREA.

To ensure long-term viability, the insurer must have premium setting authority. Such authority should provide the insurer with broad discretion to set generally applicable prices for insurance, including prices based on risk.

The insurer also should have authority to determine that any specific activity poses a serious threat to the SAIF or BIF, to prohibit SAIF or BIF members from engaging in such activities. This is the same authority that FIRREA provided to the FDIC for SAIF members.

The supervisors, and the insurer in its backup role, should have clearer authority to limit undue concentrations in banks' portfolios. Excessive concentration has been one of the principal causes of bank failures.

Dividend payments by banks which do not meet their capital requirements should be largely eliminated, unless under exceptional circumstances with the concurrence of the insurer. It is difficult to argue that a banker who has not put sufficient capital into his institution should be allowed to take capital out. Moreover, in the event of failure, dividends are simply a fund transfer from the insurer to the bank's owners.

The FDIC believes that the drain on the insurance fund from bank failures must be fixed as part of providing a recapitalization of the insurance fund. We cannot afford a system that is as costly as our insurance system is today. To stop the losses we recommend:

(1) The adoption of early intervention measures as proposed by the Administration, Chairman Gonzalez and many others;

(2) The restructure of the financial services industry as proposed by the Administration to improve profitably and competitiveness; and

(3) The reversal of the course of history in certain areas of bank regulation. Many of the loans that have cost the FDIC the most money would have been illegal prior to 1974. Section 24 of the Federal Reserve Act (12 U.S.C. 37) prohibited National Banks from making loans on raw land; from making construction loans where the builder contributed less than 25 percent equity and limited overall concentrations in real estate lending by national banks. The 1974 Housing and Community Development Act liberalized the raw land and concentration restrictions. The 1982 Garn-St Germain Act repealed the mandatory real estate lending rules and left the standards to the discretion of the Comptroller of the Currency. (See Attachment 4). The FDIC has been paying the consequences ever since. In the three years following the passage of the Garn-St Germain Act, construction and land development loans by Texas commercial banks doubled as a percentage of assets and nearly tripled in dollar terms. It is time for insured institutions to return to old-fashioned standards of safe-and-sound banking; the restrictions lifted by Congress in 1974 and 1982 should be reinstated.

Before closing, I would like to make an observation. Deposit insurance is much like a nuclear reactor. If kept under control, both are beneficial. However, if out of control, both can cause enormous damage. In the nuclear area, responsible people place multiple levels of safety precautions to avoid a disaster. We believe that FDIC back-up supervisory authority helps provide the fail-safe mechanism that protects the public from another financial disaster such as occurred in the thrift industry.

Mr. Chairman, this concludes my testimony. I would be pleased to answer questions at this time.

ATTACHMENT 1

Assumptions for Bank Insurance Fund Projections

1. Assessment revenue is assumed at 23 basis point rate beginning June 1991. The assessable base is projected to grow at 4.5% per year.

2. The estimated number of bank failures is based on projections by our supervisory staff.

3. Cash Outlays:

   - Banks under $100 million, 60% of assets
   - Banks $100M to under $1.0 billion, 50% of assets
   - Banks over $1.0 billion, 30% of assets

4. Insurance Losses:

   - 29.0% of assets for banks under $100 million
   - 18.1% of assets for $100 million to $1.0 billion institutions
   - 13% - 25% average for $1.0 billion and over institutions
   - Insurance losses are the difference between funds initially outlayed for resolution activities and the amount expected to be recovered by BIF. Expected recoveries are net of any asset losses, liquidation expenses, and debt servicing costs related to the transaction.

5. Liquidation proceeds follow historical patterns:

   - Failed bank assets are sold over a 5 year period
   - First year recovery 17.5%
   - Second year recovery 30%
   - Third year recovery 22.5%
   - Fourth year recovery 15%
   - Fifth year recovery 15%

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
PROJECTED OUTLAYS

Baseline Estimate		1991	1992
FAILED BANK PROJECTIONS			
Under $100 MM			
Number		135	122
Assets		2,700	8,250
$100 – 1,000 MM			
Number		30	31
Assets		7,500	7,750
Over $1,000 MM			
Number		15	7
Assets		54,800	14,000
Total			
Number		180	160
Assets		65,000	30,000
FAILED BANK OUTLAYS – BASED ON PERCENT TO ASSETS			
Under $100 MM	60.0%	1,620	4,950
$100 – 1,000 MM	50.0%	3,750	3,875
Over $1,000 MM	30.0%	13,740	4,200
Banks charged to prior year		8,000	2,700
Total		27,110	15,725
FAILED BANK LOSSES – BASED ON PERCENT TO ASSETS			
Under $100 MM	29.0%	783	2,393
$100 – 1,000 MM	18.1%	1,358	1,403
Over $1,000 MM	13 – 25% *	7,009	1,855
Total		9,150	5,650
Banks charged to prior year		3,433	1,100
Total for Failed Banks:		12,583	6,750

* Expected losses range from 13% to 25%.

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
PROJECTED CASH FLOW STATEMENTS

Baseline Estimate	**1990***	**1991**	**1992**
Projected Bank Failures	169	180	160
CASH RECEIPTS:			
U.S.T. Investments	1,025	500	200
Bank Assessments	2,869	5,190	5,800
Liquidation Proceeds	2,402	4,944	8,331
Other receivables	604	60	60
TOTAL CASH RECEIPTS	6,900	10,694	14,391
CASH OUTLAYS:			
Failed Bank Disbursements:	12,797	27,110	15,725
Operating Disbursements	977	1,330	1,237
Current Scheduled Notes		1,159	199
TOTAL CASH OUTLAYS:	13,774	29,599	17,161
NET CASH FROM OPERATIONS	(6,874)	(18,905)	(2,770)
Beginning Cash	13,739	6,865	2,500
Ending Cash (Minimum $2.5B)	6,865	2,500	2,500
PROJECTED NEW FINANCING			
New Borrowings		14,540	2,578
Repayment of New Borrowings			
Outstanding New Financing		14,540	17,117
Scheduled Notes Outstanding	2,614	1,458	1,256
Total Debt Outstanding	2,614	15,998	18,373

ATTACHMENT 1

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
PROJECTED INCOME STATEMENTS

Baseline Estimate	1990*	1991	1992
REVENUE			
Assessments Earned	2,855	5,190	5,800
Interest on US Treasury	855	300	200
Other revenue	128	210	0
Total Revenue	3,838	5,700	6,000
EXPENSES AND LOSSES			
Administrative operating exp.	220	350	350
Merger assistance loss & exp.	651	500	500
Provision for insurance loss	7,821	9,150	5,650
Total Expenses and Losses	8,692	10,000	6,500
Net Income (Loss)	(4,854)	(4,300)	(500)
Fund Balance – Beginning	13,210	8,356	4,056
Fund Balance – Ending	8,356	4,056	3,556
Ratio to Insured Deposits	0.42%	0.20%	0.17%

* Actual (Unaudited)

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
STATEMENT OF FINANCIAL POSITION
FOR THE YEARS ENDED
(Dollars in Millions)

Baseline Estimates

ASSETS	1990	1991	1992
Cash & cash equivalents	6,865	2,500	2,500
Accrued interest receivable on investments and other assets	197	147	87
Net Receivables from bank assistance and failures	9,106	18,689	20,433
Property and buildings	145	145	145
	16,313	21,481	23,165
LIABILITIES AND THE FUND BALANCE			
Accounts payable, accrued liabilities and other	88	88	0
Projected new financing	0	14,540	17,353
Liabilities for estimated bank assistance	4,344	431	89
Liabilities incurred in bank assistance and failures	3,433	2,274	2,075
Estimated Losses from litigation	92	92	92
Total Liabilities	7,957	17,425	19,609
Fund Balance	8,356	4,056	3,556
	16,313	21,481	23,165

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
PROJECTED OUTLAYS – CALENDAR YEARS 1991 THROUGH 1992

Pessimistic Estimate		1991	1992
FAILED BANK PROJECTIONS – DRS			
Under $100 MM			
Number		167	150
Assets		11,690	10,500
$100 – 1,000 MM			
Number		40	43
Assets		10,000	10,750
Over $1,000 MM			
Number		23	17
Assets		68,310	48,750
Total			
Number		230	210
Assets		90,000	70,000
FAILED BANK OUTLAYS – BASED ON PERCENT TO ASSETS			
Under $100 MM	60.0%	7,014	6,300
$100 – 1,000 MM	50.0%	5,000	5,375
Over $1,000 MM	30.0%	11,793	14,625
Banks charged to prior years		8,000	8,700
Total		31,807	35,000
FAILED BANK LOSSES – BASED ON PERCENT TO ASSETS			
Under $100 MM	29.0%	3,390	3,045
$100 – 1,000 MM	18.1%	1,810	1,946
Over $1,000 MM	13 – 25% *	7,850	4,959
		13,050	9,950
Banks charged to prior years		3,433	3,500
Total for Failed Banks:		16,483	13,450

* Expected losses range from 13% to 25%.

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
PROJECTED CASH FLOW STATEMENTS

Pessimistic Estimate

	1990*	1991	1992
Projected Bank Failures	169	230	210
CASH RECEIPTS:			
U.S.T. Investments	1,025	500	200
Bank Assessments	2,869	5,190	5,800
Liquidation Proceeds	2,402	5,084	10,771
Other receivables	604	60	60
TOTAL CASH RECEIPTS	6,900	10,834	16,831
CASH OUTLAYS:			
Failed Bank Disbursements	12,797	31,807	35,000
Operating Disbursements	977	1,330	1,237
Current Scheduled Notes		1,159	199
TOTAL CASH OUTLAYS:	13,774	34,296	36,436
NET CASH FROM OPERATIONS	(6,874)	(23,462)	(19,605)
Beginning Cash	13,739	6,865	2,500
Ending Cash (Minimum $2.5B)	6,865	2,500	2,500
PROJECTED NEW FINANCING			
New Borrowings		19,097	19,605
Repayment of Borrowings			
Outstanding New Financing		19,097	38,703
Scheduled Notes Outstanding	2,614	1,458	1,256
Total Debt Outstanding	2,614	20,555	39,959

* Actual (Unaudited)

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
PROJECTED INCOME STATEMENT

Pessimistic Estimate

	1990*	1991	1992
REVENUE			
Assessments Earned	2,855	5,190	5,800
Interest on US Treasury	855	300	200
Other revenue	128	210	0
Total Revenue	3,838	5,700	6,000
EXPENSES AND LOSSES	93		
Administrative operating exp.	220	350	350
Merger assistance loss & exp.	651	500	500
Provision for insurance loss	7,821	13,050	9,950
Total Expenses and Losses	8,692	13,900	10,800
Net Income (Loss)	(4,854)	(8,200)	(4,800)
Fund Balance – Beginning	13,210	8,356	156
Fund Balance – Ending	8,356	156	(4,644)
Ratio to Insured Deposits	0.42%	0.01%	–0.22%

FEDERAL DEPOSIT INSURANCE CORPORATION
BANK INSURANCE FUND
STATEMENT OF FINANCIAL POSITION
FOR THE YEARS ENDED
(Dollars in Millions)

Pessimistic Estimate

ASSETS	1990	1991	1992
Cash & cash equivalents	6,865	2,500	2,500
Accrued interest receivable on investments and other assets	197	147	87
Net Receivables from bank assistance and failures	9,106	19,346	33,013
Property and buildings	145	145	145
	16,313	22,138	35,745
LIABILITIES AND THE FUND BALANCE			
Accounts payable, accrued liabilities and other	88	88	0
Projected new financing	0	19,097	38,703
Liabilities for estimated bank assistance	4,344	431	132
Liabilities incurred in bank assistance and failures	3,433	2,274	1,462
Estimated Losses from litigation	92	92	92
Total Liabilities	7,957	21,982	40,389
Fund Balance	8,356	156	(4,644)
	16,313	22,138	35,745

PROBLEM BANK CHANGES, 1984-1990

	All Commercial Banks	Problem Commercial and Savings Banks[2]				
Year	Problem asset ratio[1]	Number of problem banks	Number of banks added	Number of banks deleted	Total problem bank assets ($Bil)	CAEL additions (# of banks)[3]
1984	1.97%	848	502	296	$223.3	
1985	1.87%	1,140	604	312	$237.8	
1986	1.95%	1,484	838	494	$335.5	515
1987	2.46%	1,575	718	627	$358.5	361
1988	2.14%	1,406	511	680	$352.2	296
1989	2.26%	1,109	322	619	$235.5	224
1990	2.63%	1,046	382	445	$408.8	243

1. Calculated by adding loans past due 90+ days *plus* nonaccrual loans *plus* other real estate owned *divided by* total assets. Excludes BIF-insured savings banks. 1990 is through September 30.

2. This schedule summarizes changes in the problem bank list over the last several calendar years. While the volume of assets held by problem banks is worthwhile information, the risks to the Fund and the likelihood of actual failures of problem banks varies enormously between individual institutions. Moreover, the addition or deletion of large banks to the list limits the value of the total asset numbers, in and of themselves, as a barometer of the size of impending resolution costs.

3. Using call report data, the CAEL model simulates the bank examiner's decision process to assess the financial condition of a bank. CAEL's assessment produces an off-site equivalent of a CAMEL rating (excluding M, management). CAEL then compares its off-site rating to the rating assigned at the last examination. Differences between CAEL and the most recent CAMEL for individual banks are reviewed to help determine examination schedules and focus. In the aggregate, CAEL data usage is varied. As used above, CAEL data indicate the potential deterioration in banks rated "1" and "2" at their most recent examination. As of September, 1990, for example, 243 banks rated "1" or "2" at their last examination are now rated a weak "3", "4", or "5" by CAEL.

ATTACHMENT 2

Comparison of BIF Estimates

($ in billions)

	1991	1992	1993
Fund Net Worth			
OMB	4.4	(2.2)	(9.1)
CBO	1.4	(2.8)	(2.6)
FDIC - base	4.1	3.6	
FDIC - pessimistic	0.2	(4.6)	
FDIC - based on OMB estimates			(9.1)
Assets of Failed Banks			
OMB	62.4	62.4	62.4
CBO\1	96.6	66.9	44.6
FDIC - base	65.0	30.0	
FDIC - pessimistic	90.0	70.0	
FDIC - based on OMB estimates			67.0
Losses on Failed Banks			
OMB	12.0	12.0	12.0
CBO	13.0	9.0	6.0
FDIC - base	9.2	5.7	
FDIC - pessimistic	13.1	10.0	
FDIC - based on OMB estimates			9.0
Premium Assessments			
OMB	21.25	23	23
CBO	21.25	27	30
FDIC	23	23	23
Deposit Base Growth			
OMB	3.9%	6.6	7.3%
CBO	4.5	4.5	4.5
FDIC	4.5	4.5	4.5%

ATTACHMENT 3

BANK INSURANCE FUND
PROJECTED STATEMENT OF OPERATIONS – 1991
(Dollars in Millions)

Pessimistic Estimate

	Net Income	Fund Balance	Capital Ratio	Maximum Obligations	Current Obligations	Available Borrowing	Cumul. Borow. Shortfall
December '90		8,356	51.2%	75,204	7,957	67,247	0
January	280	8,636	71.5%	77,720	3,444	74,276	0
February	89	8,724	66.8%	78,518	4,328	74,191	0
March	18	8,743	73.9%	78,683	3,091	75,592	0
April	(360)	8,383	78.2%	75,447	2,338	73,109	0
May	(755)	7,628	79.2%	68,648	2,004	66,643	0
June	(1,200)	6,428	75.8%	57,851	2,049	55,801	0
July	(969)	5,459	57.9%	49,134	3,967	45,167	0
August	(969)	4,491	35.8%	40,417	8,051	32,366	0
September	(1,287)	3,204	20.5%	28,833	12,399	16,434	0
October	(1,298)	1,906	10.1%	17,150	16,956	194	0
November	(930)	975	4.7%	8,777	19,658	0	2,702
December	(819)	156	0.7%	1,404	21,982	0	5,026
Total	(8,200)						

ATTACHMENT 4

SUMMARY OF MAJOR
REAL ESTATE LENDING RESTRICTIONS
FOR NATIONAL BANKS
PRIOR TO 1974[1]

Section 24 of the Federal Reserve Act (12 U.S.C. 371, 1970 ed.)

1. Loans secured by first liens upon improved real estate:
    - a. not to exceed 50% of appraised value and 5 year maturity, or
    - b. not to exceed 66 2/3% of appraised value with a maturity no longer than 10 years if the loan requires installment payments sufficient to amortize 40% or more of the principal of the loan within 10 years, or
    - c. not to exceed 66 2/3% of appraised value with a maturity no longer than 20 years if the loan requires installment payments sufficient to amortize the entire principal within 20 years, or
    - d. not to exceed 90% of appraised value with a maturity no longer than 30 years if the loan requires installment payments sufficient to amortize the entire principal within 30 years.

   Overall limit not to exceed bank's capital stock paid in and unimpaired surplus, or 70% of time and savings deposits, whichever is greater.

2. Commercial or industrial construction loans with maturities not to exceed 60 months where there is a valid and binding agreement by a financially responsible lender to advance the full amount of the bank's loan upon completion of the buildings, and residential and farm building construction loans with maturities not to exceed 60 months. Aggregate of all construction loans is limited to 100% of paid in capital and 100% of unimpaired surplus.

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[1] This summary includes only the major restrictions on real estate lending by national banks. It is not intended to be a comprehensive list of all such restrictions.

ATTACHMENT 4

MAJOR CHANGES IN REAL ESTATE LENDING RESTRICTIONS SINCE 1974

Citation	Amendment
Pub. L. 93-383 Aug. 22, 1974	Permitted loans on unimproved real estate, limited to 60% of the appraised value.
Pub. L. 97-320 Oct. 15, 1982	Deleted the 60% limit for loans on unimproved real estate.
Pub. L. 93-383 Aug. 22, 1974	Deleted the aggregate limit on construction loans and imposed a limit of 75% of appraised value.
Pub. L. 97-320 Oct. 15, 1982	Deleted the 75% limit for construction loans.
Pub. L. 93-383 Aug. 22, 1974	Increased the limit for real estate loans, not otherwise limited, to 90% of appraised value.
Pub. L. 97-320 Oct. 15, 1982	Deleted the 90% limit for real estate loans.
Pub. L. 93-383 Aug. 22, 1974	The limit on aggregate outstanding real estate loans was increased from the greater of the amount of capital stock paid in and unimpaired surplus or 60% of time and savings deposits to the greater of the amount of capital stock paid in and unimpaired surplus or total time and savings deposits.
Pub. L. 97-320 Oct. 15, 1982	Deleted the limit on aggregate outstanding real estate loans.
Pub. L. 93-383 Aug. 22, 1974	Authorized real estate loans secured by other than first liens, limited to 20% of capital stock paid in plus 20% of unimpaired surplus.
Pub. L. 97-320 Oct. 15, 1982	Deleted the limits on real estate loans secured by other than first liens.
Pub. L. 93-383 Aug. 22, 1974	Deleted the 5 year and 10 year limits on real estate loan maturities.

QUESTIONS SUBMITTED BY SENATOR KERREY

Question 1: Members of Congress have heard contradictory statements regarding the availability of funds for the Resolution Trust Corporation's work in closing or selling insolvent savings and loan institutions. Beginning last October we were informed that the RTC was running out of funds, then later we were told that due to a loophole in the FIRREA legislation the RTC actually had sufficient funds to operate until February 28, 1991. However, following the House Banking Committee failure to initially approve legislation to fund the RTC, it was unclear whether the RTC had used the so-called loophole funds. Please provide me with your chronology of this matter and indicate whether the RTC has funds on hand at this time.

Answer 1: In the fall of 1990, RTC informed the Congress that its work in closing insolvent thrifts would be significantly curtailed by the end of the year and would ultimately cease without (1) additional funds authorized to cover losses in insolvent thrifts, and without (2) a change in the FIRRERA-imposed obligation limitation ("debt cap"), by which RTC borrows funds to finance the temporary purchase and holding of assets until they can be sold, i.e., working capital.

The Oversight Board, with the consent of the House and Senate Banking Committee leadership, subsequently approved an easing of the "debt cap" that did not require new legislation, through the so-called "$18.8 billion loophole." This has allowed the RTC to continue borrowing for working capital purposes. However, because additional funds to cover losses were not provided by Congress before it adjourned for the year, RTC was forced to slow down the process of marketing and selling thrifts. This resulted in a delay of one quarter in the resolution process.

With the recent passage of the Resolution Trust Corporation Funding Act of 1991, RTC has sufficient funds to resolve in excess of 200 thrifts for January through September of this year. However, RTC will require the authorization of additional loss funds before the start of Federal fiscal year 1992 to prevent a suspension of the resolution process in the fall of the year.

Question 2: Could you please explain the relationship between the FDIC and the RTC. Are there divisions or sections that have been separated (e.g. legal, accounting, etc.)? Do you foresee an eventual organizational division between the two operations? And by what date?

Answer 2: The FDIC and the RTC are two independent federal corporations. Although the board members of the two corporations are the same people at this time, the boards are in fact independent of one another. The RTC Board exercises operational direction of the RTC through the Executive Director.

The RTC Oversight Board sets RTC policy and a context within which the RTC is managed on a daily basis. This structure was established by FIRREA in 1989. All employees of the RTC are FDIC employees. In 1989, the RTC had no structure and staff. To get started the FDIC hosted many RTC operations for a period of time until the RTC could hire, train and transition their work into a structure designed for RTC's unique needs. Operational functions such as conservatorship operations, resolutions, asset management and asset sales activities became independent of the FDIC before the support functions transitioned. Following that, smaller support operations such as legislative affairs, budget, corporate communications and research became independent of the FDIC to more closely focus on the RTC Executive Director. More recently, major portions of the Division of Accounting and Corporate Services transitioned and the Legal Division has dedicated a major and distinct portion of its staff to the RTC. This structure was established by FIRREA in 1989.

The evolution of functions is constantly examined and analyzed in the face of economies of scale, operational needs and the expectations of unfolding legislation affecting the RTC. The recent movement of DFO occurred because of the RTC Oversight Board policy role in the management of the assistance agreements which weighed in more heavily than the FDIC's legislative direction to manage the FRF monies. Future changes may continue to occur as experience and guidance dictate but at this time we have no plans to affect a complete division between the FDIC and the RTC.

Question 3: I have been critical of the RTC's oversight structure, especially its dual boards, and I have sought to provide the RTC with a single accountable board with a clear delineation of authority. I would appreciate your views on the weaknesses of the RTC's dual oversight structure and suggestions as to how it could be strengthened. Further, would you support a single board under the leadership of a strong chair from the private sector? Would you recommend that the RTC and FDIC be separated completely?

Answer 3: While it was our view that the oversight structure was not the most efficient way to organize, we believe the structure is functioning reasonably well and improving, thanks in large part to the committed efforts by Executive Director David Cooke and Oversight Board President Peter Monroe.

Clearly, having two boards involved makes doing business more time-consuming and does create some confusion with regard to accountability for operations, although a better understanding has developed over the past several months. On the other hand, the task is massive and very costly to the taxpayer, so having an oversight board to concentrate on funding and real major policy questions while another board manages operations may provide some benefits.

Given where we are now and the way we started out, I think it probably would be a mistake to change the present organizational structure at this point given the projected life of the RTC. While any major change were under way, operations would be slowed and uncertainty would prevent action. With regard to separating the RTC from the FDIC, about 20% of RTC's permanent work force, including about half of its executives, are experienced FDIC personnel who were either transferred or assigned to RTC with the understanding that they would remain FDIC employees. Many of these employees would undoubtedly seek to stay with the FDIC rather than go to a new, temporary agency. The RTC will not operate effectively if its employees are focusing on their future prospects made uncertain because of a organizational change. In addition to personnel issues, the RTC is dependent upon FDIC for various information systems and processes, legal and personnel support, and other service. Replacing these services will take time and slow operations.

Finally, if the RTC were separated from FDIC, the end result would be two separate agencies performing very similar functions with regard to liquidating financial institutions and their assets. If anything, probably we should be moving toward consolidating the liquidation function. In sum, we would not recommend separating the two organizations at this time, unless the plan is to turn the RTC into a separate, permanent real estate disposal organization for government agencies.

QUESTIONS SUBMITTED BY SENATOR NICKLES

Question 1: On January 30th, I wrote to Chairman Seidman requesting that the decision to remove Oklahoma from the Southwest Region of the Resolution Trust Corporation to the new North Central Region be reconsidered. As you know, this change lumps Oklahoma in a region with 22 other states that have no similarity to the Oklahoma economy. Would you provide me with the specific rationale for this regional change including the impact this move will have on resolving thrift cases in Oklahoma and the impact that this increased burden will have on the North Central Region with the addition of the Oklahoma thrift cases.

Answer 1: Oklahoma was shifted from the RTC's Southwest Region to the North Central Region in order to more evenly distribute the Corporation's work load among the four regions. This work load consists primarily of managing and marketing the assets of failed thrifts held in receivership. The regional realignment will enable us to attend to these duties more efficiently and effectively.

Question 2: The FDIC announced yesterday a plan to borrow $25 billion from the Federal Reserve which you plan to repay through increased insurance premiums. What method do you intend to use to assess these increased premiums and will foreign deposits be subject to these same premiums? What is the economic burden of such an assessment on the smaller banks, which have no foreign deposits, as compared with the larger banks?

Answer 2: The Treasury Department has proposed a longer-term funding plan for the Bank Insurance Fund (BIF) that requires the banking industry to fund certain obligations of the BIF -- no tax payer money is requested. Included in this long-term plan is BIF authority to borrow up to $25 billion from the Federal Reserve. This borrowing authority would be used to cover insurance losses as required. Insurance premiums would be dedicated to repay the borrowing over time as the economy recovers.

For each $10 billion of borrowing up to the $25 billion authorization, 3.5 basis points of banks' insurance assessments would be dedicated to service principal and interest. The FDIC already has proposed an assessment increase that would cover up to $10 billion under this authority, so at most there would be an additional $15 billion in borrowings and an additional 5.25 basis points of insurance assessments dedicated to debt service. This is consistent with the 30 basis point cap on aggregate assessments the FDIC has proposed.

There are no specific plans to assess, or specifically insure, foreign deposits at this time. However, the FDIC has recommended that if it is required to bear the cost of covering uninsured deposits (including foreign deposits) under "too-big-to-fail" determinations, it should have the authority to assess a broad base, including foreign deposits. This would make the assessment base conform more closely to the scope of coverage, and make the system more fair.

A recent FDIC analysis of the distribution of deposits insurance assessments and failure-resolution costs provides some evidence on the economic burden of an assessment increase. Over the past five years, the proportion of insurance assessments paid by the largest banks has been greater than their proportion of failure-resolution costs. Conversely, the proportion of assessments paid by the smaller banks has been less than their proportion of failure-resolution costs. That is, even without assessments on foreign deposits, the data indicate that the largest banks are subsidizing the cost of deposit insurance for the smaller banks.

Question 3: Is the FDIC still committed to their current practice of insuring all the deposits in the larger banks that are considered "too-big-to-fail"? Are you aware that this "too-big-to-fail" doctrine presents real problems to the deposit insurance system in that depositor discipline is unlikely to be effective in its presence? Are there currently any plans to assess premiums for the additional insurance provided these "too-big-to-fail" banks? If premiums were charged for this additional coverage, how much more funding would be attained?

Answer 3: The flexibility to resolve a large troubled bank in a manner which protects all depositors is necessary, whether this decision resides with the FDIC or with another agency. The need for this flexibility arises from considerations broader than those pertaining specifically to the operation of the deposit insurance system, e.g., increased depositor discipline, but instead relates to the need for some branch of the government to be concerned with macroeconomic stability.

In the FDIC's view, if the FDIC bears the cost of covering uninsured depositors, the FDIC should decide whether to cover such depositors. Similarly, the assessment base should be consistent with the failed bank resolution process. If the FDIC bears the cost of "too-big-to-fail" determinations, it should have the flexibility to assess a broad base such as total liabilities.

While broadening the assessment base would increase BIF assessment income, some of the increase would not be realized. Expanding the assessment base for total deposits to total liabilities could trigger some disintermediation, as previously unassessed liabilities would move out of banks and into banks' financial competitors.

Question 4: As you know, in 1988 some 14 insolvent Oklahoma savings and loan associations were consolidated by the FSLIC into 6 larger, but still insolvent entities. Two of the six have been sold but four remain: Cimarron Federal, Chisolm Federal, Heartland Federal, and Red River Federal. When Congress passed FIRREA in 1989, it transferred supervision of all S&L "deals" done after January 1, 1989 to the RTC. Because the "Southwest Plan" entities were put together in 1988, they fell outside of the provisions of the statue and were not transferred to the RTC. Currently, there is a division within the FDIC which is the remnants of the old FSLIC and which purportedly has management/supervisory responsibility for these institutions.

Answer 4: Please note that while the FDIC, as manager of the FRF remains liable for all obligations arising under the FSLIC assistance agreements, the staff responsible for managing these agreements was transferred from the FDIC to the RTC effective February 10, 1991. The purpose of the transfer was to place management responsibility with the same entity to which FIRREA grants renegotiation authority thereby facilitating cost savings efforts.

Question 4a: What is the projected cost of resolving the Southwest Plan institutions?

Answer 4a: From your introductory comments, we believe your question refers to the final resolution of the five stabilized institutions.

There are five institutions which are considered "stabilized," and efforts are underway to effect a permanent resolution to these institutions. Four are located in Oklahoma and one in Texas. The most recent cost estimate for resolving these five institutions amounted to $6.6 billion.

Question 4b: Has the cost of resolving these institutions been included in any of the numbers discussed by the FDIC in its recent appearances before the Congress asking for funding?

Answer 4b: Yes, please refer to Attachment A which is a copy of testimony given by Stanley J. Poling, Interim Director, Division of FSLIC Operations (DFO) before the Subcommittee on VA, HUD and Independent Agencies Committee on Appropriations, United States House of Representatives, on October 11, 1990.

Question 4c: What plans currently exist to dispose of these institutions and what is the timetable for implementation of such plans?

Answer 4c: The RTC plans to place these institutions into conservatorship and resolve them in the ordinary course of business by soliciting bids from the private sector for their acquisition. The estimated time frame for resolution of these institutions is projected for the fourth quarter of FY1991 and the first quarter of FY1992.

Four are now in RTC conservatorship: Cimarron FS&LA, Chisholm Federal S&L, Sunbelt Savings, FSB and Red River FS&LA.

Question 4d: What are the regulatory and supervisory guidelines under which these institutions are currently operated?

Answer 4d: As operating thrift institutions, their primary regulator was is the Office of Thrift Supervision. They were further subject to the supervision of the FDIC's Division of Supervision. Also, as part of the assisted stabilization of these institutions, the management of these institutions is subject to an agreement with the FRF entitled, "Additional Operating Terms and Conditions." This agreement establishes operating procedures and conditions for continuation of FRF assistance including; submission of semi-annual operating plans, budgets and quarterly reports on these plans and budgets, monitoring of liabilities, guidelines for the composition and election of Board of Directors, subsidiary management, staff adequacy and employment contracts, and monitoring of branch and profit centers.

Once placed into conservatorship under the RTC, these institutions are subject to the oversight of the RTC.

Question 4e: What has been the cost to date of continuing to allow these insolvent institutions to operate over the past two and one-half years?

Answer 4e: The aggregate assistance paid these stabilized institutions which has amounted to approximate $2.5 billion through December 31, 1990.

Two billion dollars of this assistance was paid to Sunbelt Savings, FSB, Dallas, Texas (Sunbelt) which is the largest of the stabilized institutions with $6.0 billion in assets as of March 31, 1991. In August, 1988 Sunbelt acquired eight failed thrifts. During June 1990, Sunbelt entered into an agreement with the RTC to accept the transfer of deposits, branch operations and to temporarily manage the assets of Gill Savings of Hondo, Texas and Bexar Savings Association, San Antonio, Texas. Since the assisted stabilization of this institution, and including the subsequent management of two additional failed thrifts, Sunbelt has continued it consolidation efforts and has reduced its total branch operations by a net of 27 offices.

During the past calendar year alone, each of these stabilized institutions has made significant strides in the disposition of covered assets under the assistance agreements. The following table illustrates the reduction to total book value of covered assets during this period:

(in millions)

	Covered Assets at 12/31/89	Covered Assets at 12/31/90	Net Reduction to Covered Assets
Sunbelt	$ 3,870.0	$ 3,284.1	$ 585.9
Cimarron	290.0	246.5	43.5
Red River	260.0	223.7	36.3
Chisholm	70.0	53.1	16.9
Heartland	400.0	365.4	34.6

We believe the assisted stabilization of these institutions has been less costly to the taxpayer because lack of action would have permitted a continued competition for deposits and other borrowings affecting increases in the regional cost of funds and the resulting further decline in the net worth of these institutions.

Question 4f: What firms or individuals are under contract to manage the day-to-day operations of these five entities?

Answer 4f: Each of these stabilized institutions employ their own management with the approval of their Board of Directors and the DFO. The following list identifies existing management at each of the five stabilized institutions, prior to RTC conservatorship actions:

INSTITUTION	MANAGEMENT	ANNUAL COSTS
Sunbelt Savings, FSB *	Tom Wagemann, Pres, CEO, Director	$350,000
Cimarron FS&LA *	Ed Whal, CEO	$177,504
Red River FS&LA*	John F. Saalman, Sr., President	$134,350
Chisholm Federal S&L *	Steve Cowan, President, CEO	$92,843
Heartland FS&LA Inc.	Neil McKay, EVP/CFO	$218,925

* In RTC conservatorship.

Question 4g: Under what arrangements, and at what cost, are these firms or individuals operating the institutions? What is the incentive for these individuals to manage these entities in a way which is mindful of the marketplace in which they operate and which directly affects both Oklahomans and Texans?

Answer 4g: These institutions are under the previously mentioned operating agreements with the FRF and are further subject to the established Board of Directors. Costs associated with any management contracts, as listed in the response to your previous question, are borne by each institution.

The Boards are comprised of local business leaders from each district and, as such, are closely aligned to the local markets in which these institutions operate. Like any firm's management, managerial decisions are subject to the approval of their respective Board of Directors; and, the DFO, as required under the existing operating agreements.

Attachment A

STATEMENT OF STANLEY J. POLING, INTERIM DIRECTOR, DIVISION OF FSLIC OPERATIONS

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you today to present the FY 1991 budget estimates of the FSLIC Resolution Fund. As an integral part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the FSLIC Resolution Fund is the vehicle for liquidating the remaining obligations of the former Federal Savings and Loan Insurance Corporation (FSLIC). This principally involves payments on FSLIC contractual commitments made in prior years to financially assist acquirers of failed thrift institutions.

Following passage of FIRREA, the Administration proposed and the Congress enacted a FY 1990 FSLIC Resolution Fund appropriation that was current, indefinite in nature. We support continuation of this type of appropriation because of the variable components of the assistance agreements funded in major part by this appropriation. Estimating budgets for this program is an imprecise science as interest rates and real estate markets are the major variables affecting cost.

In FY 1991, the Federal Deposit Insurance Corporation (FDIC) is seeking a current, indefinite appropriation to pay for the shortfall between FSLIC Resolution Fund funding sources and the estimated uses of those funds. Under FIRREA Section 215, the Congress authorizes ". . . without fiscal year limitation, such sums as may be necessary to carry out this section" whenever FSLIC Resolution Fund funding from other sources is insufficient to meet the obligations outlined for the fund.

For FY 1991, the FDIC now estimates the shortfall to be approximately $4.8 billion. This $4.8 billion is the minimum amount needed to meet basic contractual obligations of the FRF.

In addition, we seek approximately $6.6 billion for resolving five stabilized cases. The portion for stabilized case resolution is our current estimate of the amount necessary to complete the resolution of these institutions which were created by the Federal Home Loan Bank Board (FHLBB) and FSLIC in 1988. These stabilized institutions (4 in Oklahoma and 1 in Texas) are still owned by the FDIC and need to be resolved, preferably by placement into private hands where, through proper incentives, the disposition of assets can be accelerated. If these stabilized institutions are not resolved, our estimate of basic needs will increase to $6.2 billion.

It should also be recognized that an additional $13 to $15 billion in buy out type funding would be necessary to achieve cost savings by exercising existing options under the 1988 assistance cases. The flexibility afforded by an indefinite appropriation has become even more imperative since the Resolution Trust Corporation's (RTC) report on the 1988 thrift assistance transactions indicates that substantial savings can be achieved should "buy out" funding be available.

The RTC Report is the result of an independent cost evaluation and cost reduction review of the assistance agreements that was mandated by FIRREA. The Report identified opportunities that exist, within the contractual agreements, to reduce costs to the government and maximize savings to U.S. taxpayers. It identified certain areas where an additional outlay of $13 to $20 billion in FY 1991 could result in savings of at least $2 billion for the U.S. taxpayer. The savings would primarily come from prepayment of promissory notes and directed write-downs of covered assets to fair market value. Note prepayments and asset write-downs could result in total savings of approximately $1.7 billion on a present value basis, with the remaining savings coming from the exercise of several other types of contractual rights (see attached testimony of Chairman L. William Seidman before the Senate Committee on Banking, Housing and Urban Affairs, dated September 20, 1990).

Having completed the RTC cost reduction report, we would like to be able to exercise our "buy out" rights under the contracts or renegotiate contract terms that are more beneficial to the government. However, funding flexibility is key to both undertakings. A definitive $4.39 billion appropriation, as recently approved by the Senate, will not allow the savings that I have outlined above to be achieved.

It should be noted that this $4.39 billion figure is based on earlier FDIC cost estimates that did not include an estimate for resolution of the stabilized cases. Moreover, our earlier estimates have been revised upward due to material uncertainties that exist in quantifying costs. These uncertainties are primarily the result of the variables of interest rates and real estate values. Interest rate and real estate value fluctuations, combined with our desire to achieve certain cost savings by expending additional funds in FY 1991, make an indefinite appropriation essential. The indefinite appropriation will also provide the strongest bargaining position in attempting to negotiate cost savings as recommended in the RTC review.

Thank you for the opportunity to present our funding needs to you. I would be happy to answer any questions which you may have.

NATIONAL CREDIT UNION ADMINISTRATION

STATEMENT OF ROGER W. JEPSEN, CHAIRMAN

ACCOMPANIED BY:
ROBERT J. LA PORTE, PRESIDENT, CENTRAL LIQUIDITY FACILITY
D. MICHAEL RILEY, DIRECTOR, OFFICE OF EXAMINATION AND INSURANCE
ALLAN MELTZER, ASSOCIATE GENERAL COUNSEL
WILLIAM C. POLING, BUDGET OFFICER

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. Now, our final activity today is the National Credit Union Administration.

Mr. Jepsen.

The Credit Union Administration does not obtain appropriated funds, but does seek legislative authority each year for the administrative expenses and the extent of lending activity by its Central Liquidity Facility.

For fiscal year 1992, the NCUA again proposes a $600 million ceiling on loans and seeks a slight increase in administrative expenses to $964,000.

With that, we welcome a former colleague, Senator Roger Jepsen, who is the Chairman of the National Credit Union Administration.

Senator Jepsen, it is a pleasure to welcome you and to welcome a war hero. I am sure you watched with great intent the events that have unfolded over the last several weeks and months. And like you, we feel great pride in the outcome. And you I'm sure so identified with many of the people who were held. It was an especially poignant moment for you. Weren't you just glad to see them come home so quickly?

Mr. JEPSEN. Very thankful; yes, ma'am.

Senator MIKULSKI. Well, how are we doing?

INTRODUCTION OF ASSOCIATES

Mr. JEPSEN. Madam Chair, thank you for the opportunity to appear before you and present our request for the NCUA Central Liquidity Facility. Appearing here with me today, Madam Chair, are Robert LaPorte on my immediate right, who is the President of the CLF, and Allan Meltzer is here representing our General Counsel. On my far left here, Mike Riley, who is the Director, Office of Examination and Insurance; my immediate left, Bill Poling, who is the Budget Officer for the agency on my far right.

BUDGET REQUEST

For fiscal year 1992, we are again requesting a $600 million limit on new loans. This requested limit has remained constant for the last 11 years and, I might add, it has proven adequate throughout these years. And I have every reason to believe, Madam Chair, that this amount continues to be adequate. Recent developments within the credit union community, however, may dictate otherwise. I do not believe that it will, but what I am referring to is the high volume of activity in the privately insured credit unions that have recently requested coverage by the National Credit Union share insurance fund. Nationwide we have received both applications and inquiries for converting to the Federal insurance fund. We want to make this a nonevent, the conversion and the transfer, but should membership confidence in private insured credit unions erode, we might find ourselves encountering a great demand for short-term liquidity by members of the Central Liquidity Facility.

Regarding our operating expenses, we are requesting that the committee please consider a $964,000 limitation when approving our portion of the HUD, Independent Agencies budget. Our request this year represents an increase of $71,400 over last year's approved limitation. The majority of that increase, Madam Chair, is due to the fact that our president is due to retire shortly, and the majority of that request is in anticipation of a possible relocation move should we pick a chair—and that is most likely—from out of the city from somewhere in the country.

Senator MIKULSKI. Out of Washington?

Mr. JEPSEN. Out of Washington.

CREDIT UNION LIQUIDITY

I am pleased to report that the credit unions currently continue to remain liquid. During the past calendar year, credit union shares increased at a nice rate of growth of 7.5 percent while outstanding loans to members increased only 3.5 percent. We anticipate that both savings and loan growth will continue on a sound basis during fiscal year 1992. However, the effects of the current downturn in the economy plays a heavy role in credit union members' saving and borrowing habits.

If a liquidity crisis should arise, the CLF needs to be prepared to act, and we believe that the $600 million loan limit should be adequate for fiscal year 1992.

At the close of fiscal year 1985, the CLF's outstanding loan portfolio was $222 million. At the end of fiscal years 1986 through 1990, the portfolio balances were $106 million, $111 million, $120 million, $112 million, and $67 million, respectively.

CDCU REVOLVING LOAN FUND

During the fiscal year 1990, the NCUA board issued appropriate regulations to implement our new responsibility which was given us, that is, the Community Development Revolving Loan Program for Credit Unions. The first application period closed on March 30, 1990, with the receipt of 35 applications and the subsequent commitment of $2.155 million. On December 17, 1990, the NCUA board again announced that applications for participation in the program would be accepted through February 28. We have subsequently extended that to March 22.

Madam Chair, we respectfully ask that you support our authorization request in order that we might respond quickly to changes in the credit union community. By supplying a source of emergency funds, the CLF bolsters public confidence during periods of liquidity stress.

And again I thank you for the opportunity to appear before you today and present our requests for the CLF. And we would be very pleased to answer any questions that you may have.

[The statement follows:]

STATEMENT OF ROGER W. JEPSEN

Madam Chair and members of the Subcommittee, thank you for this opportunity to appear before you and present our request for the NCUA Central Liquidity Facility. Appearing here with me today are Robert J. LaPorte, President, CLF; Robert M. Fenner, General Counsel; D. Michael Riley, Director, Office of Examination and Insurance; and William C. Poling, Budget Officer for the Agency.

For fiscal year 1992, we are again requesting a 600 million dollar limit on new loans. This requested limit has remained constant for the last 11 years and, I might add, has proven adequate throughout these years. While I have every reason to believe that this amount continues to be adequate, recent developments within the credit union community may dictate otherwise. What I am referring to is the high volume of activity in privately insured credit unions recently requesting coverage by the National Credit Union Share Insurance Fund. Should membership confidence in privately insured credit unions erode, we may well find ourselves encountering a greater demand for short-term liquidity by members of the Central Liquidity Facility.

Regarding the CLF's operating expenses, we are requesting that the Committee consider a $964,400 limitation when approving our portion of the HUD–Independent Agencies Budget. Our request this year represents an increase of $71,400 over last year's approved limitation.

I am pleased to report that credit unions currently continue to remain liquid. During the past calendar year, credit union shares increased 7.5 percent, while outstanding loans to members increased only 3.5 percent. We anticipate that both savings and loan growth will continue during fiscal year 1992, however, the effects of the current downturn in the economy plays a heavy role in credit union members' savings and borrowing habits.

If a liquidity crisis should arise, the Central Liquidity Facility needs to be prepared to act, and we believe that the Committee's authorization of a 600 million dollar new loan limit should be adequate for fiscal year 1992 unless membership confidence in the privately insured credit unions causes a severe liquidity problem as I mentioned previously.

At the close of fiscal year 1985, the CLF's outstanding loan portfolio was 222 million dollars. At the end of fiscal years 1986 through 1990, the portfolio balances were 106 million, 111 million, 120 million, 112 million, and 67 million respectively.

During fiscal year 1990, the National Credit Union Administration Board issued appropriate regulations to implement the Community Development Revolving Loan Program for Credit Unions. The first application period closed on March 30, 1990, with the receipt of 35 applications and the commitment of 2.155 million dollars. On December 17, 1990, the National Credit Union Administration Board again announced that applications for participation in the program would be accepted through February 28, 1991, which we have subsequently extended to March 22, 1991.

Madam Chair, we respectfully ask that you support our authorization request in order that we may respond quickly to changes in the credit union community. By supplying a source of emergency funds, the Central Liquidity Facility bolsters public confidence during periods of liquidity stress.

Thank you for the opportunity to appear before you today and present our requests for the Central Liquidity Facility. We would be pleased to answer any questions you may have.

CENTRAL LIQUIDITY FACILITY MEMBERSHIP REQUIREMENTS

Senator MIKULSKI. Thank you, Senator Jepsen.

We know that our involvement is in some ways nominal but important. Let me ask some questions here.

I assume that membership in the Central Liquidity Facility by a credit union involves meeting NCUA standards on management practices and investments. In other words, a privately insured credit union should be as financially strong as a federally insured credit union, and if there were a run on these credit unions, you should insure their continued solvency. In other words, the non-Federal could come to the Central Liquidity Facility; is that right?

Mr. JEPSEN. The Central Liquidity Facility has membership from all of them. Yes; that's correct.

Senator MIKULSKI. And do the members who were privately insured meet the same standards on management practices, investments, and so on, as the Federal ones?

Mr. JEPSEN. Well, they are supposed to.

Senator MIKULSKI. Is there a requirement that they do?

Mr. RILEY. For the extension of credit from the CLF, yes, they would have to meet the same standards as any federally insured institution.

Senator MIKULSKI. Because the question arises that if a non-Federal credit union has access to the Central Liquidity Facility and didn't meet the same standards, that would be a pretty good deal for some of them.

Mr. RILEY. For the CLF to extend to any credit union, whether it is federally insured or privately insured, the same credit standards would apply to that credit union.

BORROWING ISSUE

Senator MIKULSKI. Thank you very much. That is a very important question and it is a comforting one because what you are saying is in order for them to get any assistance from the Central Liquidity, they have to meet the standards.

Your financial statements suggest capital stock sales now were more than enough to finance your operation. Why do you even bother to borrow some additional money from the Federal Financing Bank?

Mr. JEPSEN. Mr. LaPorte.

Mr. LAPORTE. We have found, Madam Chair, that it is more economical for the Central Liquidity Facility, as well as for the credit unions that we are attempting to provide assistance to, by utilizing the borrowing authority that we do have through the Federal Financing Bank.

Mr. JEPSEN. Mr. Riley, do you have anything to add?

Mr. RILEY. No.

LENDING AUTHORITY NEEDS

Senator MIKULSKI. If a run would occur, do you anticipate how much lending authority you would need? Of course, it's difficult.

Mr. RILEY. It would depend on how large the run was, but we are prepared to meet anything that we see right now.

Mr. LAPORTE. We do believe, as Mike mentioned, unless there is really something astronomically large. That is why we continue to believe that the committee's authorization for a $600 million lending limit should be sufficient for fiscal year 1992.

STEPS TAKEN TO INSURE CONFIDENCE IN CREDIT UNIONS

Senator MIKULSKI. Right now there is a great deal of skepticism in American financial institutions. However, people love credit unions because of the nature of the common bond.

What steps are you taking to, No. 1, insure confidence in the credit union system and, No. 2, to help or advise these communities that have been privately insured where there seems to be an increased nature of risk of abandoning the institutions?

Mr. JEPSEN. Well, in answer to the first part of your question, Madam Chair, the steps that we take to insure confidence from the credit union community are the steps that we have been taking and working on since I came on board in 1985, and that is to keep ahead of our problems. And by keeping ahead of our problems, we have increased the training, we have increased the training level considerably. We have increased the cooperative programs between State regulators and our regulators. We have implemented programs commensurate with the risk and the change in the economy that have provided extra assistance to those troubled credit unions that we early on detect have trouble. We have allocated 150-percent manpower allocation of this program.

We believe, first of all, in preventive maintenance. Second, we believe when the problem occurs, that early action on it is very, very essential in financial institutions. I think history has shown that. And we have the capacity, both manpower and training levelwise, to do this in joint cooperation, of course, with the individual States where State charters are included. I think that level of examination and, I want to put in emphasis, supervision, which is the price you pay for deregulation in financial institutions, close supervision, and to do it without fear or favor—we have done just that. And we are thankful that both the surveys show and our record shows that there is a high level of confidence in the credit union community, and we intend to keep it that way.

INCREASED CONCERN OVER LIQUIDATIONS

Senator MIKULSKI. Senator Jepsen, first of all, I think that is an excellent outline.

One of the warning signs or troubling signs, we should say, are our concerns over the increased number of involuntary liquidations. In 1988, our records show that there were 35 of them, that in 1990 there were 83 of them, small compared to all this testimony you heard but, nevertheless, if it's your institution, it's your institution.

Could you suggest why these liquidations are occurring and steps that need to be taken?

Mr. JEPSEN. Madam Chair, Mr. Riley will be happy to answer that for you.

Mr. RILEY. One of the things you are seeing particularly from our agency would increase supervision as we are not tolerating sloppy operations anymore, and what you are seeing is some very small credit unions who we have provided extensive supervision, have a documented track record of contact, monthly contact, weekly contact, who are just not providing the service to their members. We are choosing to go ahead and liquidate those credit unions and pay them out rather than wait for years and years and get no reaction.

That is essentially what you are seeing. The average size liquidation has declined from 1988 to 1990 as well. So, that's what you're seeing. Credit unions who have been unable to correct their problems we are going ahead and either merging or liquidating.

Senator MIKULSKI. I see. So, the involuntary liquidations could also be a merger rather than a——

Mr. RILEY. Those are separate actions, but also some of our mergers—our assisted mergers have increased as well.

Mr. JEPSEN. The policy of the agency is to keep, as credit unions and the credit union philosophy does, the members foremost in mind. I tell people I have 64 million bosses, and that's the members of the credit unions. And we go on what is best for the members. And what is best for the members is, of course, the basic things that the agency stands for, safety and soundness. That's first, and then providing service to those members, in other words, having members who wouldn't otherwise have access to credit, to make sure we just don't strip them out. So, some of the involuntary liquidations or the mergers and so on—all of them are considered in this total picture of providing service to members, safety and soundness being first, and many times a liquidation will result where there is credit union service immediately. And we take considerable time and effort to make sure that members do not have the rug pulled out from under them or that we do not deal without a heart. We deal without fear or favor, but we do have a heart.

AUDIT FREQUENCY

Senator MIKULSKI. How frequently are you auditing every federally insured credit union, and how does that compare to 5 years ago?

Mr. JEPSEN. We examine every Federal credit union once a year. We have been on that schedule now since——

Mr. RILEY. It's probably our eighth year.

Mr. JEPSEN. In addition to that, as I indicated, we have increased and have a special program for the troubled credit unions where we have a presence once every 3 months and more often, if necessary. In other words, it could be monthly or, as Mr. Riley has indicated, there are some where we are in there every week. So, we have had a policy of and have activated and have completed an annual examination of every credit union for about 8 years now, but absolutely since 1985. I know that for a fact since I've been there.

Senator MIKULSKI. Very good.

CREDIT UNION INVOLVEMENT IN REAL ESTATE

Senator Jepsen, one of the areas that emerged that seems to lead to troubling situations in financial institutions is involvement in real estate, particularly commercial real estate, offering very long-term loans and therefore, with the changing interest rates, getting caught in the crunch where what you are taking in deposits and paying is substantially different than what you are earning on your loans. And I'm wondering if you find any of this is emerging in the credit union industry with the same telltale signs that were in the S&L.

Mr. **JEPSEN**. Madam Chair, very early in 1986 we detected—as some of our fellow financial institutions in the savings and loan area, and others, as some of these problems started to come to the fore, and especially in the commercial area, we instituted what we call our business loan regulation which was a very strict one. We are fine-tuning it right now. Subsequently, 7 percent of all the credit unions in number are engaged in some form of commercial type of lending, and 0.7 percent of all the loan assets are involved in commercial real estate in all of our loan portfolios.

And I admonished the credit union community recently in a national convention here where there were 35,000—you addressed the same group the day after that I did—that the commercial loan activities were not within the credit unions' historic or present ability to handle. And anyone who insisted on doing commercial loans, that I would suggest they get a bank charter and that I would help them get the address where they facilitate it. So, it's minimal.

MODEL ROLE OF CREDIT UNIONS

Senator **MIKULSKI**. Well, you and I agree with that. Credit unions are special American institutions. In fact, I feel they lend themselves to export the credit union model to particularly the emerging democracies in Eastern Europe. Later on this evening I will be at a State dinner with the President, Lec Walesa. There are a lot of Polish farmers who kept zlotys under their mattress because they didn't want to be in the comrade bank, but they would lend to each other. This was the same group of farmers that refused to collectivize. And they would have a deep distrust of banks because under the old system, banks were established on party favor, et cetera, but farmers would lend to each other. So, we know what credit unions mean to local people.

I think our concern is because the credit unions enjoy an independent regulatory framework—there is an apprehension on our part that there are those who would like to camouflage themselves as credit unions, but operate as banks.

Mr. **JEPSEN**. As chair, I do not look with favor on that. They know that. And our policy and our activities have been to very rigidly restrict and carefully supervise the commercial loaning activity, what little there is, and it's very little. Historically, there has been some, especially in the New England States, forever, and we have some problems frankly with some of it. But we are on top of that situation and we intend to keep it that way.

Do you have anything to add, Mr. Riley?

Mr. **RILEY**. No.

CREDIT UNION MOVEMENT SUPPORT

Senator **MIKULSKI**. Gentlemen, I think you see the thrust of the question, which is that we support the credit union movement, we support the philosophy outlined by you, Senator Jepsen. We need a very close regulatory kind of guardian of the membership, and we want the credit unions to be credit unions and to make sure that there is competence, and the common bond is maintained. And we are happy to cooperate with you to do that. We also understand that in your stewardship you have undertaken a certain level of capacity building so that people who do operate the credit unions have the opportunity to upgrade their skills and fine-tune the ability to provide good management to their members. Am I correct in that?

Mr. **JEPSEN.** Yes; we encourage that heavily.

Senator **MIKULSKI.** That seems to be the key. It's ordinary citizens who lend to their other members, but it's a changing world out there.

Mr. **JEPSEN.** Rapidly changing, Madam Chair. And, of course, there are members in a number of credit unions who provide full service, and that is where some of the trade association lobbying, especially the ABA, comes from. They are operating like banks, they say, because they provide checking service and they provide credit card service. And my response to that is credit union members are not second-class citizens. This is a different world we live in. That's the age and they deserve the services. And they are the ones that pushed that request and they are provided for in that way. But that doesn't violate, in my opinion, the basic credit union philosophy or the credit union. In fact, it enhances it; it reinforces it. It's to serve their members. And there are many of the members of the credit union community that just do not fit the prototype or the profile of a bank customer. That doesn't mean the bankers don't have a heart. It just means they can't properly serve them.

We are thankful for the things that have happened and we are thankful that we have been able to stay ahead of our problems. And we do spend an inordinate amount of our time in our agency trying to keep from being fixed.

Senator **MIKULSKI.** We understand that. That's why we followed the Brady reform measures. We know that the credit union members spoke clearly about their desire to be independent, and we encouraged them that as long as they kept their credit union focus, they would have the support of the Congress.

And what is so American about credit unions is its pluralistic nature. It can be something as small as a church-based credit union that only operates on Sunday mornings after mass.

CLOSING REMARKS

Mr. **JEPSEN.** St. Ann's.

Senator **MIKULSKI.** St. Ann's over there.

Mr. **JEPSEN.** I've worked there.

Senator **MIKULSKI.** One at St. Gregory's that I helped start in Baltimore many years ago in an inner city parish, and it helped people have credit that they would not have had.

The State employees credit union in Baltimore, Aberdeen Proving Ground, has assets I think well close to $1 billion. And I am a member of the Wright-Patman Credit Union here.

Mr. **JEPSEN.** It's a good one.

Senator **MIKULSKI.** I have my checking account there.

Mr. **JEPSEN.** It's good and safe, Madam Chair.

Senator **MIKULSKI.** But the reason I say it's pluralistic, it can be as small as St. Ann's or as large as Wright-Patman and yet there is room for everybody. And it keeps its focus of local control. And what I liked about credit unions is, again, they tend to be a no-frills, no-limousine operation.

Well, Senator, thank you again for your testimony and your candor, and we look forward to cooperating with you in your appropriations.

Mr. **Jepsen**. Thank you for having us appear here and thank you for your remarks. They warm the cockles of my heart. Thank you.

ADDITIONAL COMMITTEE QUESTION

Senator **Mikulski**. We will submit the balance of the questions for response in the record.

[The following question was not asked at the hearing, but was submitted to the Administration for response subsequent to the hearing:]

Question Submitted by Senator Mikulski

Question. Two years ago, you advised this subcommittee that your ratio of examiners to credit unions was approximately 1:20. What is the present ratio?

Answer: The current ratio is 1:13.

SUBCOMMITTEE RECESS

Senator **Mikulski**. The subcommittee will now stand in recess until Wednesday, April 10, when we will hear testimony from the Department of HUD and the Interagency Council on the Homeless.

[Whereupon, at 11:35 a.m., Wednesday, March 20, the subcommittee was recessed, to reconvene at 1:30 p.m., Wednesday, April 10.]

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